

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

**2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC. SASI MACH LIMITED and VICAR HOMES LTD.**

Respondents

SUPPLEMENTARY APPLICATION RECORD

Date: November 30, 2018

DENTONS CANADA LLP
77 King Street West, Suite 400
Toronto-Dominion Centre
Toronto, ON M5K 0A1
Insolvency.Toronto@dentons.com

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Fax: (416) 863-4592
barbara.grossman@dentons.com

Kenneth Kraft
Tel: (416) 863-4374
kenneth.kraft@dentons.com

Lawyers for Buduchnist Credit Union Limited

TO: SERVICE LIST

SERVICE LIST
(as at November 15, 2018)

TO:	<p>DENTONS CANADA LLP 77 King Street West, Suite 400 Toronto-Dominion Centre Toronto, ON M5K 0A1 Insolvency.Toronto@dentons.com</p> <p>Barbara Grossman Tel: (416) 863-4417 Fax: (416) 863-4592 barbara.grossman@dentons.com</p> <p>Kenneth Kraft Tel: (416) 863-4374 kenneth.kraft@dentons.com <i>Lawyers for Buduchnist Credit Union Limited</i></p>
AND TO:	<p>2321197 ONTARIO INC. 211 Woodland Acres Crescent Vaughan, ON L6A 1G1 <i>Respondent in respect of 87 Elm Grove, Richmond Hill, Ontario ("Elm Property")</i></p>
AND TO:	<p>LAX O'SULLIVAN LISUS GOTTLIEB LLP 145 King Street West, Suite 2750 Toronto, ON M5H 1J8</p> <p>Andrew Winton Tel: (416) 644-5342 Fax: (416) 598-3730 awinton@counsel-toronto.com</p> <p>Philip Underwood Tel: (416) 645-5078 punderwood@counsel-toronto.com <i>Lawyers for the Respondent, Carlo Demaria in respect of the following real properties:</i></p> <ul style="list-style-type: none"><i>(a) the Elm Property;</i><i>(b) 211 Woodland Acres Crescent, Richmond Hill, Ontario ("Woodland Property"); and</i><i>(c) 46 Puccini Drive, Richmond Hill, Ontario ("Puccini Property").</i>

AND TO:	SANDRA DEMARIA 211 Woodland Acres Crescent Vaughan, ON L6A 1G1 sandra@vapz.com <i>Respondent in respect of the Woodland Property and 506 Wilson Heights Blvd, Toronto, Ontario (the "Wilson Heights Property")</i>
AND TO:	2321198 ONTARIO INC. 211 Woodland Acres Crescent Vaughan, ON L6A 1G1 <i>Respondent in respect of the Puccini Property</i>
AND TO:	SASI MACH LIMITED 211 Woodland Acres Crescent Maple, ON L6A 1G1 <i>Respondent in respect of Wilson Heights Property</i>
AND TO:	VICAR HOMES LTD. 80 Bass Pro Mills, Suite 11-A Vaughan, ON L4K 5W9 <i>Respondent in respect of the Woodland Property and in respect of the Elm Property (as vendor)</i>
AND TO:	KSV KOFMAN INC. 150 King Street West, Suite 2308 Toronto, ON M5H 1J9 Bobby Kofman Tel: (416) 932-6228 bkofman@ksvadvisory.com David Sieradzki Tel: (416) 932-6030 dsieradzki@ksvadvisory.com <i>Interim Receiver and Receiver</i>
AND TO:	CHAITONS LLP 5000 Yonge Street North York, ON M2N 7E9 George Benchetrit Tel: (416) 218-1141 george@chaitons.com <i>Lawyers for KSV Kofman Inc.</i>

AND TO:	HORLICK LEVITT DI LELLA LLP 100 Sheppard Avenue East, Suite 870 North York, ON M2N 6N5 Brian Horlick Tel: (416) 512-7440 ext. 227 bhorlick@hldlawyers.com <i>Lawyers for Sylvia Conforti, potential purchaser of Elm Property</i>
AND TO:	LOOPSTRA NIXON LLP 135 Queens Plate Drive, Suite 600 Etobicoke, ON M9W 6V7 Michael McWilliams Tel: (416) 748-4766 Fax: (416) 746-8319 mmcwilliams@loonix.com Peter W.G. Carey Tel: (416) 748-4774 pcarey@loonix.com Christopher Lee Tel: (416) 748-5117 clee@loonix.com <i>Lawyers for Trade Capital Finance, in capacity as Plaintiff named in Mareva Order, registered against Woodland Property and Puccini Property</i>

Email List

kenneth.kraft@dentons.com; barbara.grossman@dentons.com;
Insolvency.Toronto@dentons.com; mmcwilliams@loonix.com; pcarey@loonix.com;
bhorlick@hldlawyers.com; sandra@vapz.com; clee@loonix.com; awinton@counsel-
toronto.com; punderwood@counsel-toronto.com; bkofman@ksvadvisory.com;
dsieradzki@ksvadvisory.com; george@chaitons.com

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TAB 1

Court File No. CV-18-00608356-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

**2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED and VICAR HOMES LTD.**

Respondents

**RESPONDING AFFIDAVIT OF OKSANA PROCIUK
(Sworn November 20, 2018)**

I, **OKSANA PROCIUK**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the President and Chief Executive Officer at Buduchnist Credit Union Limited (“BCU”), the Applicant in this proceeding. As such, I have personal knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.
2. This affidavit is sworn in response to the Affidavit of Carlo Demaria, sworn November 12, 2018 (the “**Demaria Affidavit**”). All capitalized terms used, but not defined herein, have the meanings ascribed in my Affidavit, sworn November 6, 2018, filed in this proceeding.

Loan and Mortgage Payments

3. The Demaria Affidavit states at paragraph 14 that, up until August 2018, Carlo and Sandra Demaria made monthly payments of \$7,800 to BCU. Contrary to the assertion in paragraph 15 of the Demaria Affidavit, the \$7,800 monthly payments were insufficient to keep the BCU Loans (as defined in the Demaria Affidavit) in good standing. The monthly payments necessary to service the BCU Loans are \$27,211 to \$32,249, plus an additional \$1,500 in respect of principal on the 197 Loan, the 198 Loan and the Second Woodland Mortgage. A breakdown of these payments are set out in the table below:

	Loan/Mortgage	Property	Principal/Line of Credit Limit	Minimum Monthly Payment
1.	197 Loan	Elm Property	\$2,200,000	\$6,755-\$9,150 interest, plus \$500 principal
2.	198 Loan	Puccini Property	\$2,500,000	\$8,704-\$11,629 interest, plus \$500 principal
3.	First Woodland Mortgage	Woodland Property	\$1,490,000	\$2,700 (blended interest and principal)
4.	Second Woodland Mortgage	Woodland Property	\$3,000,000	\$9,052-\$11,470 interest, plus \$500 principal
	Total			\$27,211-\$32,249, plus \$1,500 principal on 1, 2 and 4

4. According to BCU's account records, the \$7,800 monthly payments deposited into Sandra Demaria's account were allocated and applied as follows:

- (a) \$2,700 - First Woodland Mortgage;
- (b) \$2,907 - Sasi Mach Loan (Wilson Heights Property); and

- (c) \$750 - mortgage granted to BCU on a cottage property owned by Carlo and Sandra Demaria (which is not part of the receivership proceedings).

5. The balance of the \$7,800 payments, totalling approximately \$1,440 monthly, was applied to pre-authorized credits returned NSF, missed mortgage payments on the Wilson Heights Property and the cottage property and amounts outstanding on the Second Woodland Mortgage.

Dates of Default

6. The Demaria Affidavit states at various instances that the loan payments on the BCU Loans ceased as of August 2018. With the exception of the First Woodland Mortgage, this statement is inaccurate. As detailed in my Affidavit, according to BCU's records, the last loan payments were received on the following dates:

- (a) 197 Loan (Elm Property) - October 30, 2017;
- (b) 198 Loan (Puccini Property) – October 30, 2017;
- (c) First Woodland Mortgage – August 9, 2018; and
- (d) Second Woodland Mortgage – November 2, 2017.

Knowledge of Defaults

7. The Demaria Affidavit states, specifically at paragraphs 15 and 18, that Carlo Demaria was unaware, prior to August 2018, that the BCU Loans were in default. In fact, Carlo Demaria was fully aware of the defaults on the BCU Loans. In July 2017, at the request of Carlo Demaria, BCU agreed to reduced mortgage payments going forward for various loans owing to BCU by Carlo Demaria or related entities. However, despite this accommodation, the 197 Loan, 198 Loan and Second Woodland Mortgage were immediately in default again by October/November 2017.

During the period of July 2017 to October/November 2017, only partial payments were made on these loans/mortgages and by October/November 2017, the payments ceased entirely.

8. By email, dated February 12, 2018, BCU wrote to Walter Burych (counsel to Carlo Demaria), advising of its concern that various loan accounts were delinquent and requesting that Mr. Burych contact Carlo Demaria in respect of this issue. A copy of the email, dated February 12, 2018 is attached hereto as Exhibit "A".

9. In addition, BCU issues and mails monthly statements in respect of the 197 Loan, the 198 Loan and the Second Woodland Mortgage showing all payments, or lack of payments, made in respect of such loans.

10. Furthermore, I and another representative of BCU met with Carlo Demaria and his counsel, Walter Burych, on or about April 4, 2018, to discuss the delinquency of various loans and mortgages owing to BCU by Carlo Demaria and various related companies. At that meeting, Carlo Demaria advised that once construction on the Elm Property was completed and the pending sale of the property closed, the balance of the proceeds would be paid to BCU to rectify the defaults on the loans and mortgages. It was also at this meeting that BCU first learned of the APS entered into by Vicar Homes in respect of the Elm Property. On April 5, 2018, BCU received a copy of the APS from Walter Burych, counsel to Vicar Homes in respect of the APS transaction.

11. BCU did not take immediate action in respect of the various defaults based on its expectation, in reliance on assurances from Carlo Demaria (including at the April 4, 2018 meeting), that the proceeds from the sale of the Elm Property, after repayment of the 197 Loan, would be applied to remedy the other defaults. However, when the closing date for the sale of the

Elm Property was delayed and construction on the property halted, and the BCU Loans fell into further default, BCU exercised its right to commence enforcement proceedings.

Mortgage/Loan Statements

12. Contrary to the assertions in the Demaria Affidavit, BCU has never refused or failed to provide loan statements and related information requested by Carlo Demaria. The first request was received by email addressed to me, on October 16, 2018, from Alisa Mazo. Ms. Mazo requested certain information in respect of the BCU Loans and other loans and mortgages owing to BCU by Carlo Demaria and related parties. Ms. Mazo followed up on her request the following day. On the advice of counsel I responded to Ms. Mazo's email asking her to clarify who she was acting for and on whose behalf she was making the request. Ms. Mazo never responded and, as such, BCU did not provide her with the requested information or documentation. Copies of the emails from Alisa Mazo, dated October 16 and 17, 2018 and my responding email, are attached hereto as Exhibit "B".

13. By email, dated October 18, 2018, Carlo Demaria requested the same information from BCU as Ms. Mazo had requested. By letter, dated October 25, 2018, BCU responded to Carlo Demaria's letter providing the requested information for those accounts on which he was authorized, including the mortgage balances, and advising that historical statements, for the period requested, could be provided at BCU's customary charge for search time or alternatively transaction history printouts could be provided more quickly at no cost. Carlo Demaria responded by email, dated October 26, 2018, advising that he did not have the funds to pay the cost of obtaining the statements. He did not request the transaction history printouts that he was told could be provided more quickly and at no cost and he made no follow up requests. Copies of Carlo

Demaria's email, dated October 18, 2018, BCU's responding letter, and Carlo's responding email, are attached hereto as Exhibit "C".

14. By email, dated November 16, 2018, BCU wrote to advise Carlo Demaria that the transaction history printouts noted in BCU's earlier email were available for pick up. A copy of BCU's email communication to Carlo Demaria dated November 16, 2018 is attached as Exhibit "D".

15. By email, dated November 19, 2018, BCU wrote to Carlo Demaria, in response to his October 26, 2018 email, providing additional clarification he requested. A copy of the email from BCU, dated November 19, 2018, is attached hereto as Exhibit "E".

16. By email, dated November 15, 2018 sent within two days of the initial return date for this Receivership Application, Dentons, on behalf of BCU, forwarded to counsel to Carlo Demaria in this proceeding copies of full mortgage/loan statements in respect of each of the loans and mortgages in issue on this application, being: (a) the 197 Loan and the Elm Mortgage, (b) the 198 Loan and the Puccini Mortgage, (c) the First Woodland Mortgage, and (d) the Vicar Homes Loan and the Second Woodland Mortgage. Copies of the covering emails from Barbara Grossman to Carlo Demaria's counsel are attached hereto as Exhibit "F". The full mortgage/loan statements enclosed clearly show that the last loan payments were received on the dates I have indicated in paragraph 6 above.

Other Mortgages in Default

17. In addition to the Real Properties which are the subject of the within receivership application, BCU holds mortgages over other properties owned by Carlo Demaria or related

persons or corporations. Of those properties, at the time of service of the receivership application some those other property mortgages granted to BCU were also in default, and some currently remain in default. The statement at paragraph 11 of the Demaria Affidavit, that the other mortgages in favour of BCU are all in good standing was inaccurate when Carlo Demaria swore his affidavit on November 12, 2018 and remains inaccurate as of today.

The Properties

18. The Demaria Affidavit, at paragraph 5, states that the Puccini Property is occupied by a family friend of Carlo Demaria and his friend's elderly parents. It further states that 198 Ontario does not collect rent from the Puccini Property occupants. Carlo Demaria previously advised BCU that the Puccini Property, although originally intended to be sold, was instead rented after a 2015 sale fell through. The Demaria Affidavit does not provide any reason for the Puccini Property to be occupied rent free while the mortgage and property taxes go unpaid, nor was BCU aware of this arrangement prior to the receipt of the Demaria Affidavit.

19. Each of the Puccini Property, the Elm Property and the Woodland Property are large, luxury residential homes. Pictures of the Elm Property and Woodland Property are attached hereto as Exhibit "G". A copy of the 2016 MLS Listing for the Puccini Property, including exterior and interior pictures of the home, is attached hereto as Exhibit "H".

Carlo Demaria Financial Reorganization

20. With respect to para 23 and 24 of the Demaria Affidavit, BCU was never informed of Carlo Demaria's purported financial reorganization and never consented to any temporary hold on all loan and mortgage repayments in respect of the BCU Loans. The decision to stop all payments to

BCU in respect of the BCU Loans was made unilaterally by Carlo Demaria without notice to or the agreement of BCU.

21. As noted above and detailed in my Affidavit, the 197 Loan, 198 Loan and Second Woodland Mortgage have been in default since 2017. BCU is not prepared to accept a hold on all recurring loan and mortgage payments while Carlo Demaria considers and undertakes the restructuring as described in the Demaria Affidavit, and has no obligation to do so.


Realty Tax Arrears

22. I am advised by Esme Cragg of Dentons that, on November 19, 2018, she obtained verbal updates from the respective municipal offices as to the total quantum of realty tax arrears outstanding for each of the Elm Property, the Puccini Property, and the Woodland Property. As of November 19, 2018, the tax arrears in respect of each of those three properties total as follows:

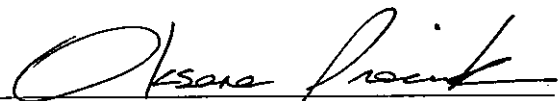
- (a) Elm Property – \$3,774.73;
- (b) Puccini Property - 12,290.12; and
- (c) Woodland Property - \$1,718.30.

23. This Affidavit is made in support of the within application.

SWORN before me in the City of Toronto, in the Province of Ontario, this 20th day of November, 2018.



A Commissioner, etc.



OKSANA PROCIUK

Stuart Wesley Ruffolo,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 27, 2019.

TAB A

THIS IS EXHIBIT "A" REFERRED TO IN THE
RESPONDING AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 20th DAY
OF NOVEMBER, 2018.



Stuart Wesley Ruffolo,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 27, 2019.

A Commissioner for Taking Affidavits, etc.

Oksana Prociuk

From: Roman Sharanewych
Sent: Monday, February 12, 2018 2:41 PM
To: wpburych@burychlawyers.com
Cc: Oksana Prociuk
Subject: Demaria - credit payments

Hello Walter,

We are getting very concerned about the accounts that are requiring payments from Mr. Demaria.

He is falling further and further behind .
Please contact him and remind him of his delinquent accounts .

thanks

Roman Sharanewych
Credit Manager

BCU  **Financial Group**

romanshar@buduchnist.com

2280 Bloor Street West,

Toronto, Ontario

M6S 1N9

416 - 763-7025

TAB B

THIS IS EXHIBIT "B" REFERRED TO IN THE
RESPONDING AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 20th DAY
OF NOVEMBER, 2018.



Stuart Wesley Ruffolo,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
~~Expires April 27, 2019.~~

A Commissioner for Taking Affidavits, etc.

Oksana Prociuk

From: Alisa Mazo <alisa.mazo@mazochowbay.com>
Sent: Tuesday, October 16, 2018 2:35 PM
To: Oksana Prociuk
Cc: Carlo@douknow.com
Subject: DeMaria/Accounts status request

Good afternoon Ms. Prociuk,

I have been asked to request the following information from BCU. Please see below and advise. I look forward to hearing from you.

1) Payments

Miscellaneous payment - \$3,200.00 - what is this payment for?
Miscellaneous payment - \$1,535.00 - what is this payment for?
Miscellaneous payment - \$1,400.00 - what is this payment for?

2) Up to date mortgage balances for:

267 Caledonia Road
282 Caledonia Road
319-321 Rogers Road
323 Rogers Road
325 Rogers Road
575k Line of credit

3) Copies of statements

1160376 Ontario - Jan 2010 - present day
1463549 Ontario Jan 2010 - present day

Thank you in advance for your assistance.

Yours truly,
Alisa Mazo
Barrister & Solicitor

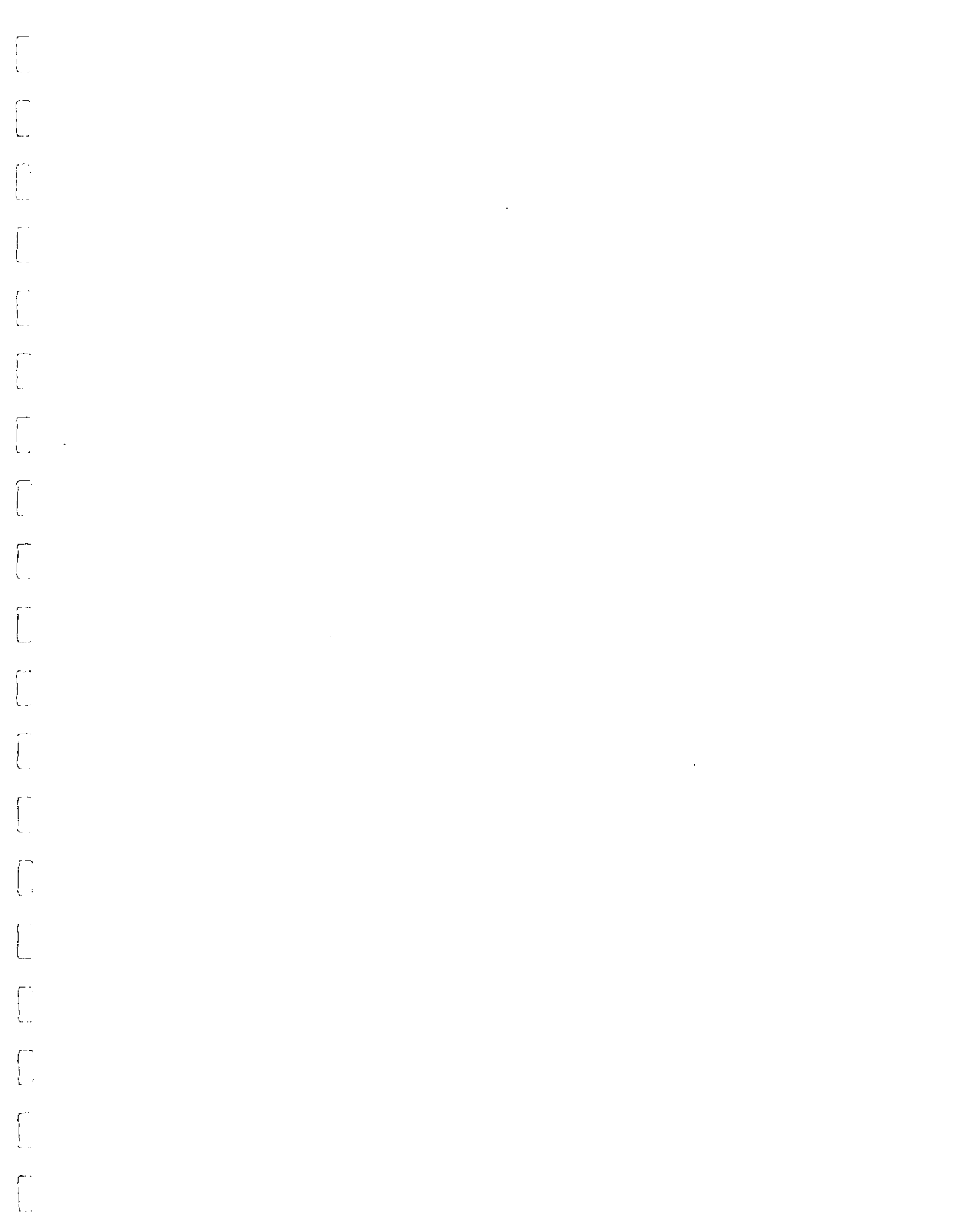
MAZO CHOWBAY
4711 Yonge St Suite 902
Toronto ON M2N 6K8

Tel: 416.621.9111
Fax: 647.348.9477

alisa.mazo@mazochowbay.com
www.mazochowbay.com

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Oksana Prociuk

From: Alisa Mazo <alisa.mazo@mazochowbay.com>
Sent: Wednesday, October 17, 2018 12:23 PM
To: Oksana Prociuk
Cc: Carlo@douknow.com
Subject: Fwd: DeMaria/Accounts status request

Good morning Ms. Prociuk,

Please see my email request below. Please advise when I may expect to receive the below requested information.

Yours truly,

Alisa Mazo
Barrister & Solicitor

MAZO CHOWBAY
4711 Yonge St Suite 902
Toronto ON M2N 6K8

Tel: [416.621.9111](tel:416.621.9111)
Fax: [647.348.9477](tel:647.348.9477)

alisa.mazo@mazochowbay.com
www.mazochowbay.com

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Begin forwarded message:

From: Alisa Mazo <alisa.mazo@mazochowbay.com>
Date: October 16, 2018 at 2:34:53 PM EDT
To: OProciukCiz@buduchnist.com
Cc: Carlo@douknow.com
Subject: DeMaria/Accounts status request

Good afternoon Ms. Prociuk,

I have been asked to request the following information from BCU. Please see below and advise. I look forward to hearing from you.

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Oksana Prociuk

From: Oksana Prociuk
Sent: Thursday, October 18, 2018 9:52 AM
To: 'Alisa Mazo'
Cc: Carlo@douknow.com
Subject: RE: DeMaria/Accounts status request

Good Morning Ms. Mazo:

Please confirm on whose behalf you are requesting this information..

Thank you, O Prociuk

From: Alisa Mazo [<mailto:alisa.mazo@mazochowbay.com>]
Sent: Wednesday, October 17, 2018 12:23 PM
To: Oksana Prociuk
Cc: Carlo@douknow.com
Subject: Fwd: DeMaria/Accounts status request

Good morning Ms. Prociuk,

Please see my email request below. Please advise when I may expect to receive the below requested information.

Yours truly,

Alisa Mazo
Barrister & Solicitor

MAZO CHOWBAY
4711 Yonge St Suite 902
Toronto ON M2N 6K8

Tel: [416.621.9111](tel:416.621.9111)
Fax: [647.348.9477](tel:647.348.9477)

alisa.mazo@mazochowbay.com
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Begin forwarded message:

From: Alisa Mazo <alisa.mazo@mazochowbay.com>
Date: October 16, 2018 at 2:34:53 PM EDT
To: OProciukCiz@buduchnist.com
Cc: Carlo@douknow.com
Subject: DeMaria/Accounts status request

Good afternoon Ms. Prociuk,

I have been asked to request the following information from BCU. Please see below and advise. I look forward to hearing from you.

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Thank you in advance for your assistance.

Yours truly,

Alisa Mazo

Barrister & Solicitor

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TAB C

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Stuart Wesley Ruffolo,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 27, 2019.



A Commissioner for Taking Affidavits, etc.

Oksana Prociuk

From: Carlo V. DeMaria <carlo@vicarhomes.com>
Sent: Thursday, October 18, 2018 11:27 AM
To: Roman Sharanevych
Cc: Oksana Prociuk; Walter P Burych
Subject: Info

Hi Roman,

I hope all is well with you, I need the following information. Let me know when it will be ready as I can either come pick it up or send a courier down to Bloor.

1) Payments

Miscellaneous payment - \$3,200.00 - what is this payment for?

Miscellaneous payment - \$1,535.00 - what is this payment for?

Miscellaneous payment - \$1,400.00 - what is this payment for?

2) Up to date mortgage balances for:

267 Caledonia Road

282 Caledonia Road

319-321 Rogers Road

323 Rogers Road

325 Rogers Road

575k Line of credit

3) Copies of statements

1160376 Ontario - Jan 2010 - present day

1463549 Ontario Jan 2010 - present day

Regards,

Carlo V. Demaria



Oksana Prociuk

From: Carlo V. DeMaria <carlo@vicarhomes.com>
Sent: Friday, October 19, 2018 8:50 AM
To: Roman Sharanewych
Cc: Oksana Prociuk; Walter P Burych
Subject: Re: Info

Good morning Roman,

Any idea when I can get the information that I have requested?

Regards,

Carlo V. Demaria

On Oct 18, 2018, at 9:26 AM, Carlo V. DeMaria <carlo@vicarhomes.com> wrote:

Hi Roman,

I hope all is well with you, I need the following information. Let me know when it will be ready as I can either come pick it up or send a courier down to Bloor.

1) Payments

Miscellaneous payment - \$3,200.00 - what is this payment for?

Miscellaneous payment - \$1,535.00 - what is this payment for?

Miscellaneous payment - \$1,400.00 - what is this payment for?

2) Up to date mortgage balances for:

267 Caledonia Road

282 Caledonia Road

319-321 Rogers Road

323 Rogers Road

325 Rogers Road

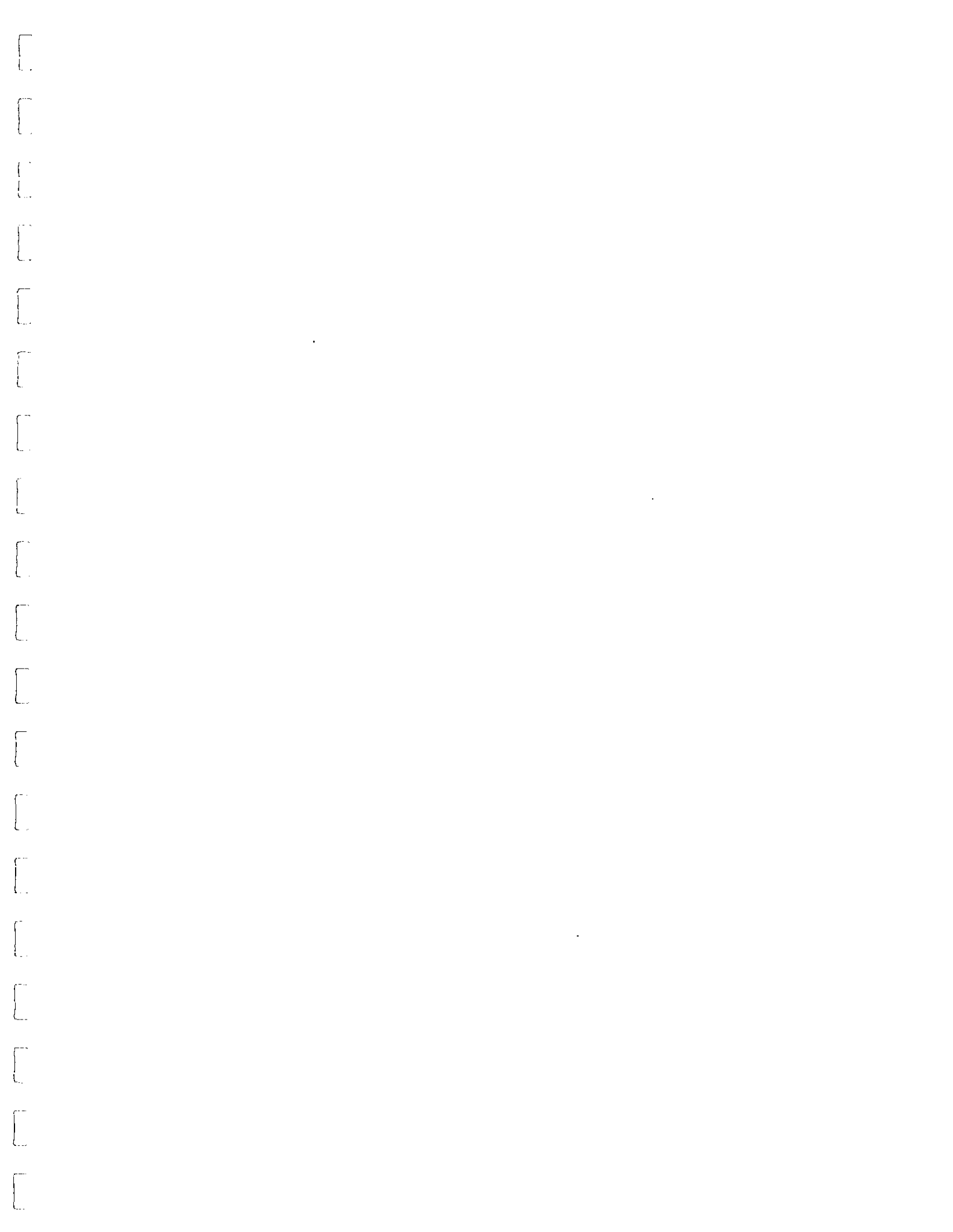
575k Line of credit

3) Copies of statements

1160376 Ontario - Jan 2010 - present day

1463549 Ontario Jan 2010 - present day

Regards,



Roman Sharanewych

From: Roman Sharanewych
Sent: Thursday, October 25, 2018 5:41 PM
To: 'Carlo V. DeMaria'
Subject: Information Requested -
Attachments: 2018_10_25_17_38_34.pdf

Hi Carlo ,

I am sorry for the delay . Please find attached answers to your questions from an e-mail that you sent on October 18, 2018.

Best Regards ,

Roman Sharanewych
Credit Manager

BCU  **Financial Group**

romanshar@buduchnist.com

2280 Bloor Street West,
Toronto, Ontario
M6S 1N9
416 - 763-7025

Via Email – carlo@vicarhomes .com

October 25, 2018

Hello Carlo ,

Re: Information requested – October 18, 2018

You inquired about a miscellaneous payment for \$3,200.00
 This payment was originally set for payments of \$1,306 towards the mortgage
 on 323 Rogers Road , \$800 towards the mortgage on 282 Caledonia Road and \$1,030
 towards the mortgage on 267 Caledonia Road - #37922-3

On behalf of all the Borrowers and Guarantors in August 2017 you asked lawyer Walter
 Burych, to discuss the possibilities with BCU of reducing the monthly payments to
 relieve some cash flow issues to which BCU agreed.

Commencing in August 2017 monthly payments were reduced to \$200 towards the
 mortgage on 323 Rogers Road , \$300 towards the mortgage on 282 Caledonia Road and
 \$700 towards the mortgage on 267 Caledonia Road -#37922-3

You also inquired about a miscellaneous payment of \$1,400.00 This payment was
 originally set up for mortgage payments towards 325 Rogers Road. On behalf of all the
 Borrowers and Guarantors in August 2017 you asked Walter Burych to discuss the
 possibilities with BCU of reducing the monthly payment to \$300 to reduce your cash
 flow strains. BCU agreed to this request.

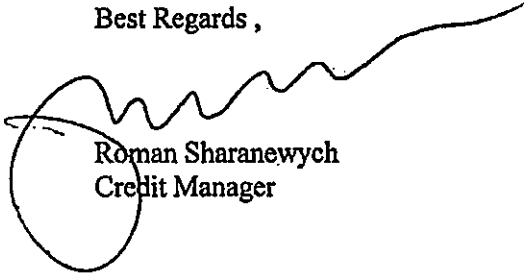
You also inquired about a miscellaneous payment of \$1,535.00. I am not able to discuss
 this with you since you are not the account holder or an authorized signatory on the
 account, nor the power of attorney for the account holder and BCU has no authorization
 and direction from the account holder to release information to you.
 I can tell you that I have responded to that account holder regarding the \$1,535 monthly
 payment.

Up to date mortgage balances as of October 24, 2018:

267 Caledonia Road - \$82,217.80
 282 Caledonia Road - \$30,408.49
 323 Rogers Road - \$16,861.44
 325 Rogers Road - \$13,021.76
 575K Line of Credit - \$529,480.94
 (subsequently reduced)

Regarding your request for copies of historical statements for 1160376 Ontario Limited and 1463549 Ontario Incorporated , a transactional history can be generated and forwarded to you in less than a week for each of these companies covering the period you requested of January 2010 to date , at no cost. However , if you still wish to obtain the corresponding monthly statements going back more than 8 years to January 2010, our cost for retrieval of old statements is \$50 per hour and a minimum cost of \$25. If you wish to go ahead with this request please do so and authorize BCU to debit your account accordingly.

Best Regards ,



Roman Sharanewych
Credit Manager



Roman Sharanewych

From: Carlo V. DeMaria <carlo@vicarhomes.com>
Sent: Friday, October 26, 2018 9:25 AM
To: Roman Sharanewych
Subject: Re: Information Requested -

Hi Roman,

Thank you for the information, can you please clarify where the remainder of both payments go, math doesn't add up. Also I will opt for the hourly service, i can authorize you to take payment for the fees but I do not see where you can take the payments as accounts are either frozen or in OD. Let me know!!!

Regards,

Carlo V. Demaria

On Oct 25, 2018, at 5:40 PM, Roman Sharanewych <romanshar@buduchnist.com> wrote:

Hi Carlo ,

I am sorry for the delay . Please find attached answers to your questions from an e-mail that you sent on October 18, 2018.

Best Regards ,

Roman Sharanewych
 Credit Manager
 <image001.gif>
romanshar@buduchnist.com
 2280 Bloor Street West,
 Toronto, Ontario
 M6S 1N9
 416 - 763-7025


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TAB D

THIS IS EXHIBIT "D" REFERRED TO IN THE
RESPONDING AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 26th DAY
OF NOVEMBER, 2018.



Stuart Wesley Ruffolo,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 27, 2019.

A Commissioner for Taking Affidavits, etc.

From: Roman Sharanewych <romanshar@buduchnist.com>
Sent: November 16, 2018 11:04 AM
To: Carlo V. DeMaria <carlo@vicarhomes.com>
Subject: RE: Information Requested -

Hi Carlo,

Hope you are doing well. I apologize for the delay but I wanted to let you know we will have the transaction history statements available for you Monday afternoon for the two accounts that your requested . 1160376 Ontario Limited and 1463549 Ontario Limited . The Statements will be available here at the Bloor branch. There will be no charge to you for this preparation.

Best regards,

Roman Sharanewych
Credit Manager

BCU  Financial Group

romanshar@buduchnist.com

2280 Bloor Street West,
Toronto, Ontario
M6S 1N9
416 - 763-7025

From: Carlo V. DeMaria [<mailto:carlo@vicarhomes.com>]
Sent: Friday, October 26, 2018 9:25 AM
To: Roman Sharanewych
Subject: Re: Information Requested -

Hi Roman,

Thank you for the information, can you please clarify where the remainder of both payments go, math doesn't add up.

Also I will opt for the hourly service, i can authorize you to take payment for the fees but I do not see where you can take the payments as accounts are either frozen or in OD. Let me know!!!

Regards,

Carlo V. Demaria

On Oct 25, 2018, at 5:40 PM, Roman Sharanewych <romanshar@buduchnist.com> wrote:

Hi Carlo ,

I am sorry for the delay . Please find attached answers to your questions from an e-mail that you sent on October 18, 2018.

Best Regards ,

Roman Sharanewych
Credit Manager
<image001.gif>
romanshar@buduchnist.com
2280 Bloor Street West,
Toronto, Ontario
M6S 1N9
416 - 763-7025

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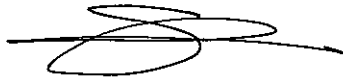
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<2018_10_25_17_38_34.pdf>

TAB E

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PROCIUK SWORN BEFORE ME THIS 26th DAY
OF NOVEMBER, 2018.

Stuart Wesley Ruffolo,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 27, 2019.



A Commissioner for Taking Affidavits, etc.

From: Roman Sharanewych <romanshar@buduchnist.com>
Sent: November 19, 2018 3:43 PM
To: Carlo V. DeMaria <carlo@vicarhomes.com>
Subject: RE: Information Requested -

Hello Carlo,

In your e-mail below you were wondering where the excess funds were being designated after the mortgage payments were applied.

When the payments were reduced under your direction through Walter Burych, the unallocated funds remained in each of the recipient accounts. The surplus funds on BCU account # 35956 current 1 (1463549 Ontario Inc) have accumulated as of today to \$15, 878.47 If you wish to apply these funds to any of your mortgages , please let me know and I will transfer these funds against the mortgages or lines of credit that you designate.

As you know the other two automatic deposits are being credited to an account that you are not an authorized recipient of, so unfortunately I cannot give you any more details without authority from that account holder .

Just to confirm , BCU received a wire today from J. Pichini & Associates Trust in the amount of \$11,635.76. These funds were applied to the overdrawn line of credit on account # 37922chq. 1. Thank you for your payment.

In order to maintain the line of credit up to date and current , BCU will require monthly payments of \$4,000.00 which would represent a declining balance amortized over 15 years at the current rate of Prime +.50% (as per the line of credit agreement) assuming the interest rate does not change .

As the business 1160376 Ontario Limited – The Cash House – to which the line of credit is related is no longer in operation , the line of credit should be terminated and BCU is asking for a full and final payout of this line of credit by April 30 , 2019.

Best Regards,

Roman Sharanewych
Credit Manager

BCU  **Financial Group**

romanshar@buduchnist.com

2280 Bloor Street West,

Toronto, Ontario

M6S 1N9

416 - 763-7025

From: Carlo V. DeMaria [<mailto:carlo@vicarhomes.com>]

Sent: Friday, October 26, 2018 9:25 AM

To: Roman Sharanewych

Subject: Re: Information Requested -

Hi Roman,

Thank you for the information, can you please clarify where the remainder of both payments go, math doesn't add up. Also I will opt for the hourly service, i can authorize you to take payment for the fees but I do not see where you can take the payments as accounts are either frozen or in OD. Let me know!!!

Regards,

Carlo V. Demaria

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Best Regards ,

Roman Sharanewych
Credit Manager
<[image001.gif](#)>
romanshar@buduchnist.com
2280 Bloor Street West,
Toronto, Ontario
M6S 1N9
416 - 763-7025

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<2018_10_25_17_38_34.pdf>

TAB F

THIS IS EXHIBIT "F" REFERRED TO IN THE
RESPONDING AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 20th DAY
OF NOVEMBER, 2018.



Wesley Ruffolo,
Commissioner, etc., Province of
Manitoba, while a Student-at-Law.
Expires April 27, 2019.

A Commissioner for Taking Affidavits, etc.

Campbell, Amanda

From: Grossman, Barbara
Sent: November 15, 2018 11:55 AM
To: Philip Underwood; Andrew Winton
Cc: Kraft, Kenneth; Van Allen, Sara-Ann; Ashley McKnight
Subject: RE: DeMaria et al. ats. Buduchnist Credit Union Limited [IWOV-Client.FID86033]
Attachments: 2018_11_14_15_43_29.pdf; 2018_11_14_15_37_16.pdf; 2018_11_14_15_30_19.pdf

Importance: High

Counsel for Carlo DeMaria,

Our client will be responding by affidavit to the affidavit of Carlo De Maria sworn November 11, 2018.

In the meantime, with respect to paragraphs 14-16, 25-25 and 33-34 of Carlo De Maria's affidavit, I am sending you now for your client's immediate reference copies of the full transaction history printouts for the loans in issue on the receivership application to assist Mr. De Maria in resolving the defaults, as follows:

1. Complete transaction history printout for the 1st mortgage on the Woodland Property;
2. Complete transaction history printout for the Vicar Homes Line of Credit secured by the 2nd mortgage on the Woodland Property – *this attachment will follow as it is very large*;
3. Complete transaction history printout for the Line of Credit secured by the Elm Grove mortgage; and
4. Complete transaction history printout for the Line of Credit secured by the Puccini mortgage;

Please update us as the tax arrears are paid. The tax update information we received on November 13th from the municipalities indicated no tax arrears had been paid on Elm Grove and Puccini and there had been a small payment on Woodland with remaining arrears of \$4,218.30.

Barbara



Barbara L Grossman
 Partner

D +1 416 863 4417
 barbara.grossman@dentons.com
 Bio | LinkedIn | Website

Dentons Canada LLP
 77 King Street West, Suite 400, TD Centre Toronto, ON M5K 0A1 Canada

HPRP > Zain & Co. > Delany Law > Dinner Martin > Maclay Murray & Spens > Gallo Barrios Pickmann > Muñoz > Cardenas & Cardenas > Lopez Velarde > Rodyk > Boekel > OPF Partners > 大成

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From: Ashley McKnight <amcknight@counsel-toronto.com>
Sent: November 12, 2018 3:58 PM
To: 'wpburych@burychlawyers.com' <wpburych@burychlawyers.com>; Kraft, Kenneth <kenneth.kraft@dentons.com>; Grossman, Barbara <barbara.grossman@dentons.com>; 'bhorlick@hldlawyers.com' <bhorlick@hldlawyers.com>;

'mmcwilliams@loonix.com' <mmcwilliams@loonix.com>; 'pcarey@loonix.com' <pcarey@loonix.com>;
'sandra@vapz.com' <sandra@vapz.com>
Cc: Philip Underwood <punderwood@counsel-toronto.com>; Andrew Winton <awinton@counsel-toronto.com>
Subject: DeMaria et al. ats. Buduchnist Credit Union Limited [IWOV-Client.FID86033]

Good Afternoon,

Please see the attached correspondence and Responding Application Record for the Application returnable November 13, 2018.

Please acknowledge receipt of this email for the purposes of my Affidavit of Service.

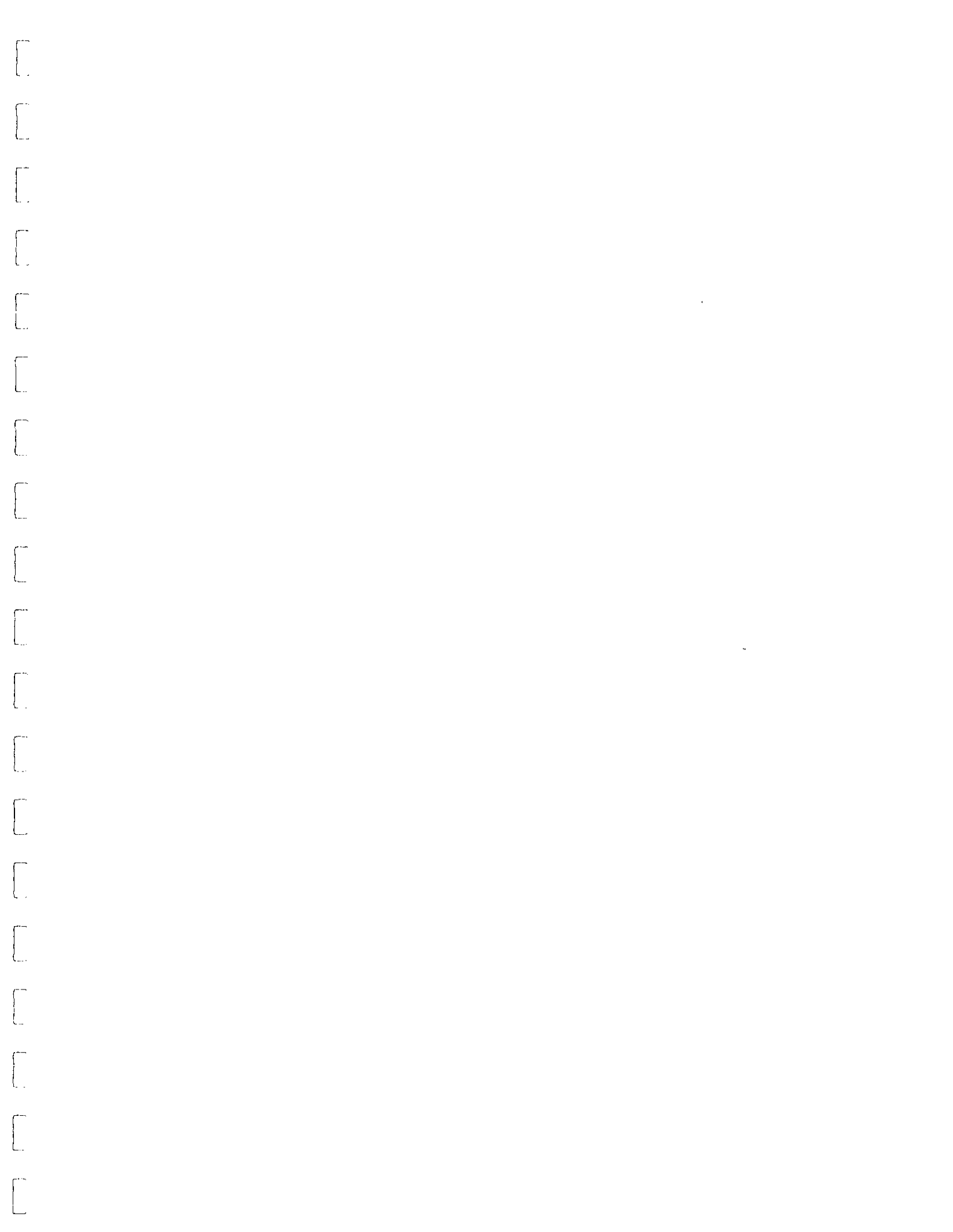
Thank you kindly,

Ashley McKnight
Assistant to Brad Vermeersch
and Philip Underwood
Direct: (416) 644-5347
amcknight@counsel-toronto.com

Lax O'Sullivan Lissus Gottlieb LLP
Suite 2750, 145 King Street West
Toronto ON M5H 1J8 Canada
T 416 598 1744 F 416 598 3730
counsel-toronto.com



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Campbell, Amanda

From: Grossman, Barbara
Sent: November 15, 2018 2:55 PM
To: Philip Underwood; Andrew Winton
Cc: Kraft, Kenneth; Van Allen, Sara-Ann; Ashley McKnight
Subject: RE: DeMaria et al. ats. Buduchnist Credit Union Limited [IWOV-Client.FID86033]
Attachments: Woodland 2nd mtg - Vicar LOC transaction history.zip

Counsel,

Attached is a zip file containing 4 pdfs that together are the transaction history printout referred to in #2 below.

Barbara



Barbara L Grossman
 Partner

D +1 416 863 4417
 barbara.grossman@dentons.com
 Bio | LinkedIn | Website

Dentons Canada LLP
 77 King Street West, Suite 400, TD Centre Toronto, ON M5K 0A1 Canada

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From: Grossman, Barbara
Sent: November 15, 2018 11:54 AM
To: 'Philip Underwood' <punderwood@counsel-toronto.com>; 'Andrew Winton' <awinton@counsel-toronto.com>
Cc: Kraft, Kenneth <kenneth.kraft@dentons.com>; Van Allen, Sara-Ann <sara.vanallen@dentons.com>; 'Ashley McKnight' <amcknight@counsel-toronto.com>
Subject: RE: DeMaria et al. ats. Buduchnist Credit Union Limited [IWOV-Client.FID86033]
Importance: High

Counsel for Carlo DeMaria,

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4. Complete transaction history printout for the Line of Credit secured by the Puccini mortgage;

37

Please update us as the tax arrears are paid. The tax update information we received on November 13th from the municipalities indicated no tax arrears had been paid on Elm Grove and Puccini and there had been a small payment on Woodland with remaining arrears of \$4,218.30.

Barbara



Barbara L Grossman
Partner

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barbara.grossman@dentons.com
Bio | LinkedIn | Website

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From: Ashley McKnight <amcknight@counsel-toronto.com>

Sent: November 12, 2018 3:58 PM

To: 'wpburych@burychlawyers.com' <wpburych@burychlawyers.com>; Kraft, Kenneth <kenneth.kraft@dentons.com>; Grossman, Barbara <barbara.grossman@dentons.com>; 'bhorlick@hldlawyers.com' <bhorlick@hldlawyers.com>; 'mmcwilliams@loonix.com' <mmcwilliams@loonix.com>; 'pcarey@loonix.com' <pcarey@loonix.com>; 'sandra@vapz.com' <sandra@vapz.com>

Cc: Philip Underwood <punderwood@counsel-toronto.com>; Andrew Winton <awinton@counsel-toronto.com>

Subject: DeMaria et al. ats. Buduchnist Credit Union Limited [IWOV-Client.FID86033]

Good Afternoon,

Please see the attached correspondence and Responding Application Record for the Application returnable November 13, 2018.

Please acknowledge receipt of this email for the purposes of my Affidavit of Service.

Thank you kindly,

Ashley McKnight
Assistant to Brad Vermeersch
and Philip Underwood
Direct: (416) 644-5347
amcknight@counsel-toronto.com

Lax O'Sullivan Lisus Gottlieb LLP
Suite 2750, 145 King Street West
Toronto ON M5H 1J8 Canada



T 416 598 1744 F 416 598 3730
counsel-toronto.com

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TAB G

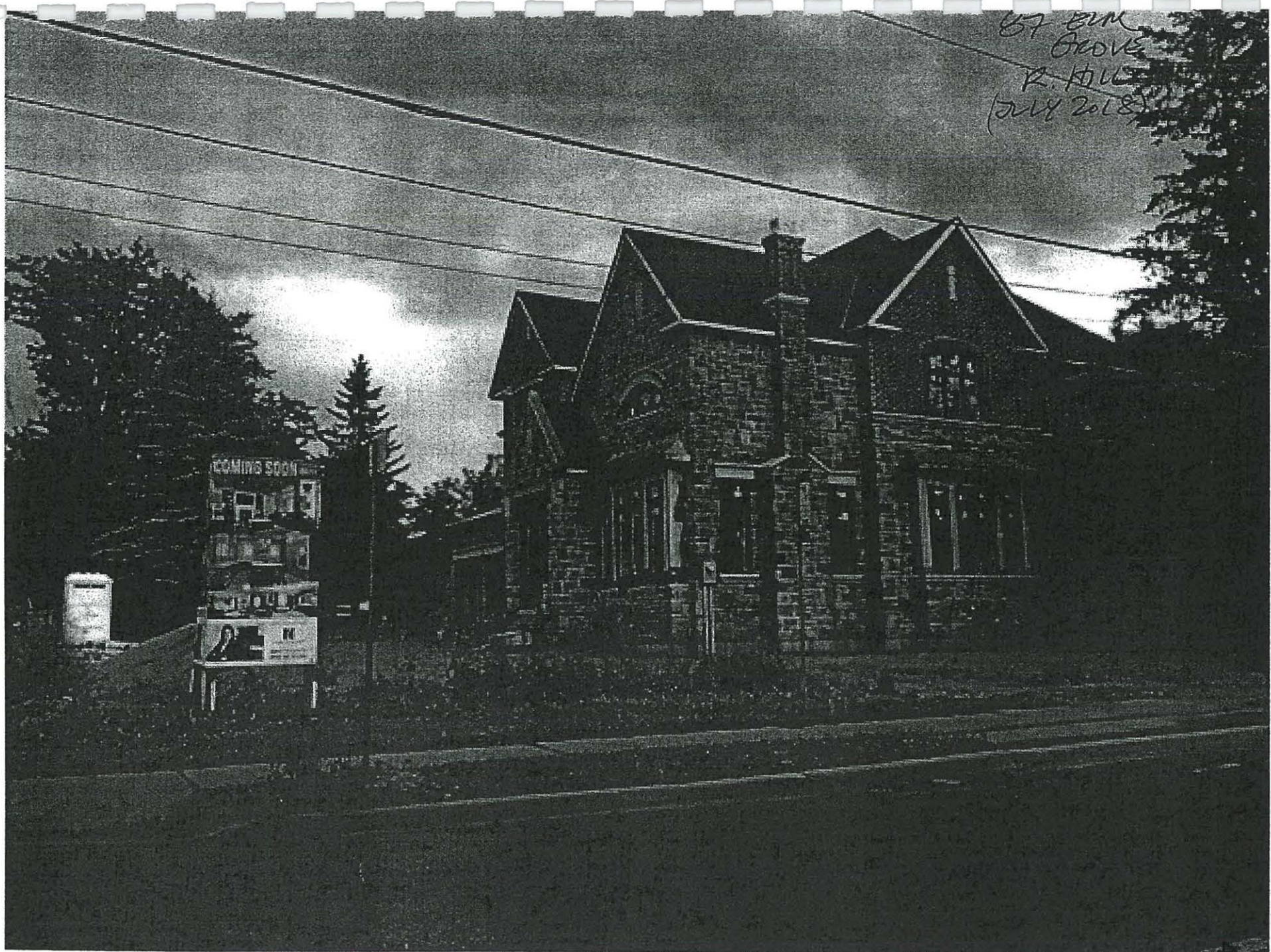
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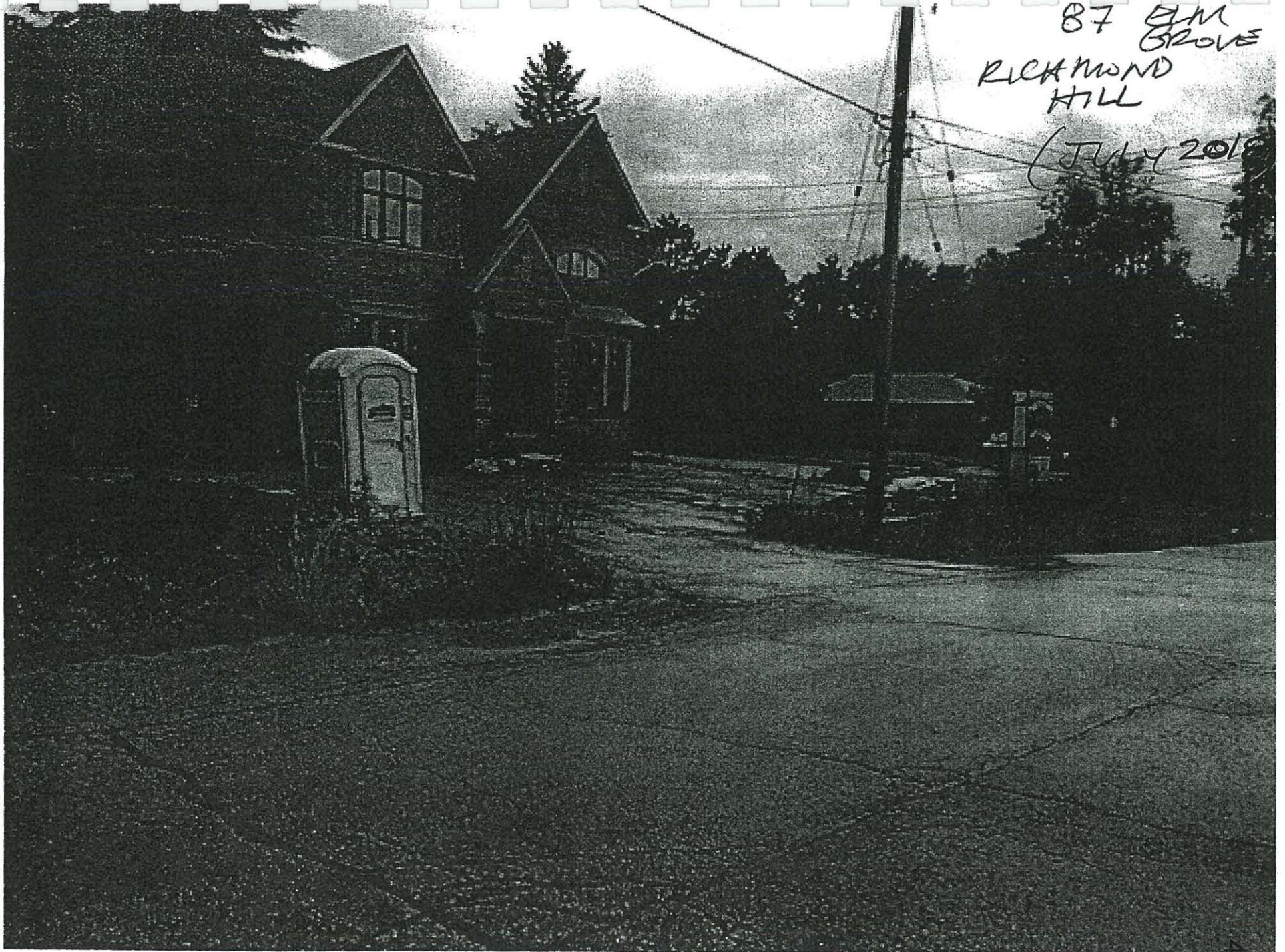
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Ontario, while a Student-at-Law.
Expires April 27, 2019.

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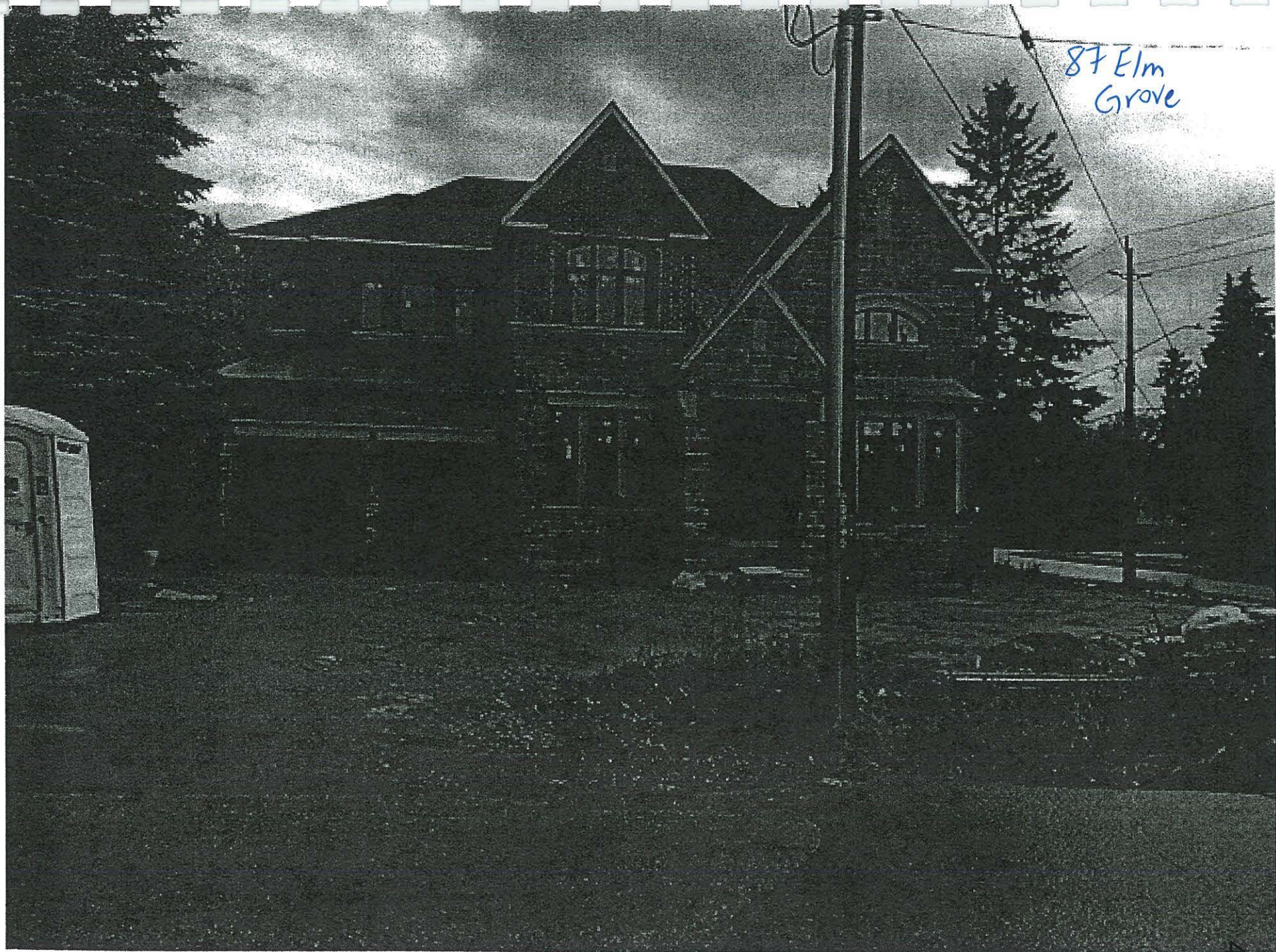
57 BUN
GROVE
R. HILL
(JULY 2018)

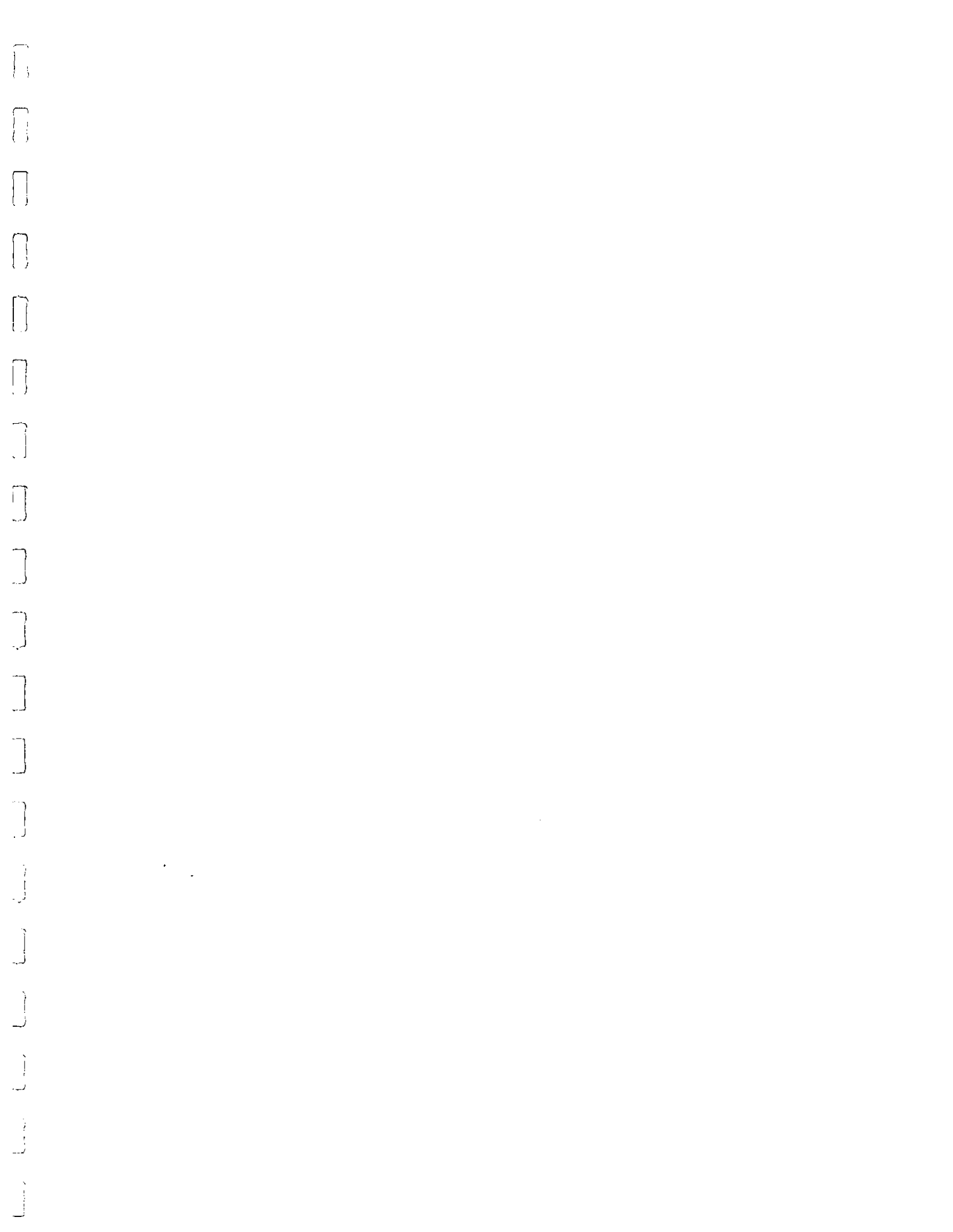


87 ELM
GROVE
RICHMOND
HILL
(JULY 2018)



87 Elm
Grove







FRONT VIEW - SUBJECT PROPERTY



STREET VIEW - SUBJECT PROPERTY

PHOTOGRAPH PAGE




TAB H

THIS IS EXHIBIT "H" REFERRED TO IN THE
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OF NOVEMBER, 2018.



Stuart Wesley Ruffolo,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 27, 2019.

A Commissioner for Taking Affidavits, etc.

	<p>46 Puccini Dr Richmond Hill Ontario L4E2Y6 Richmond Hill Oak Ridges York 337-22-H Taxes: \$3,740.82 / 2015 PI 65M807 Pt Lt 26 Rp65R34410 Pt1</p>
	<p>List: \$2,499,999 For: Sale</p> <p>SPIS: N Last Status: Ter DOM: 71</p>
<p>Detached Front On: S Rms: 16 + 0 2-Storey Acre: Bedrooms: 4 + 0 Lot: 65 x 200 Feet Washrooms: 4 Irreg: 1x2xMain, 2x4x2nd, 1x5x2nd Dir/Cross St: Yonge & King</p>	

MLS#: N3269759 Sellers: 2321198 Ontario Inc.
 Holdover: 0 Possession: 30 Days / Tba Contact After Exp: N
 PIN#: ARN#: Occup: Vacant

<p>Kitchens: 1 + 0 Fam Rm: Y Basement: Unfinished Fireplace/Stv: Y Heat: Forced Air / Gas A/C: Central Air Central Vac: Apx Age: Apx Sqft: Assessment: Elevator/Lift: Laundry Lev: Phys Hdcp-Eqp:</p>	<p>Exterior: Brick / Stone Drive: Available Garage: Attached / 3.0 Park Spcs: 10 UFFI: Pool: None Energy Cert: Cert Level: GreenPIS: Prop Feat:</p>	<p>Zoning: Cable TV: Hydro: Gas: Phone: Water: Municipal Water Supply: Sewer: Sewers Spec Desig: Unknown Farm/Agr: Waterfront: None Retirement: Oth Struct:</p>
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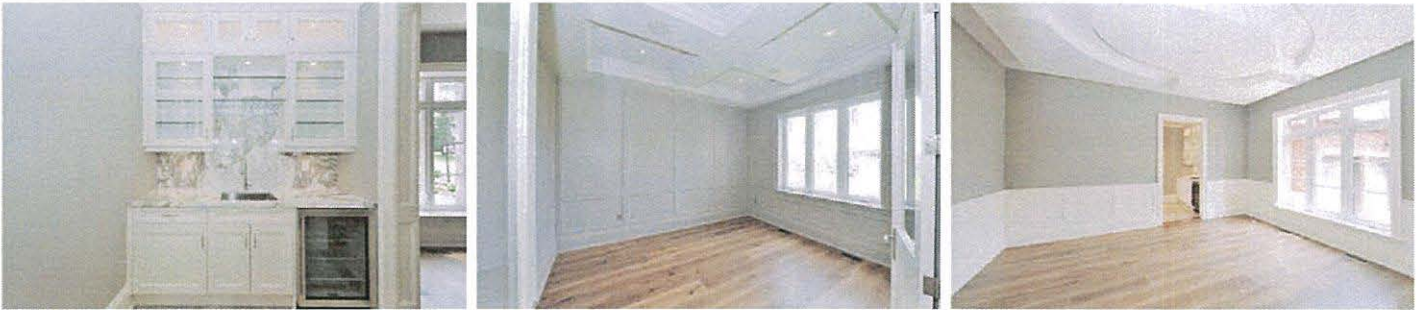
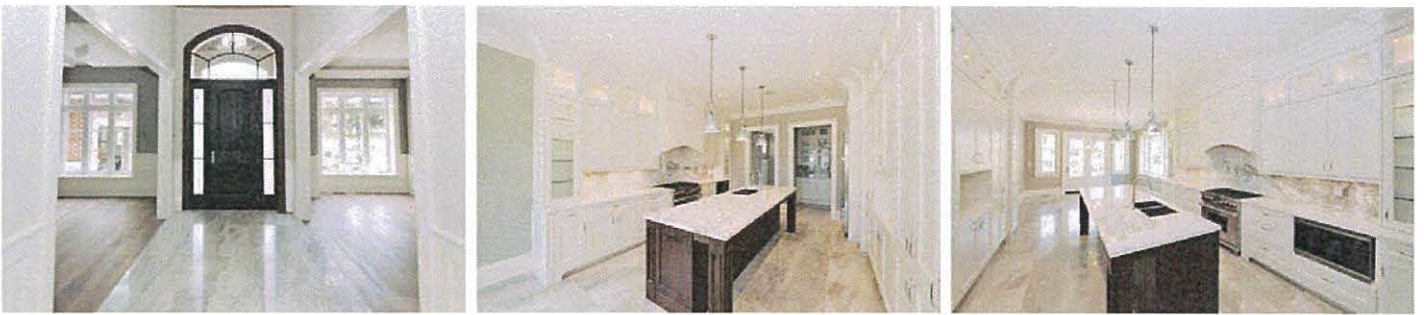
Room Level Length (ft) Width (ft) Description

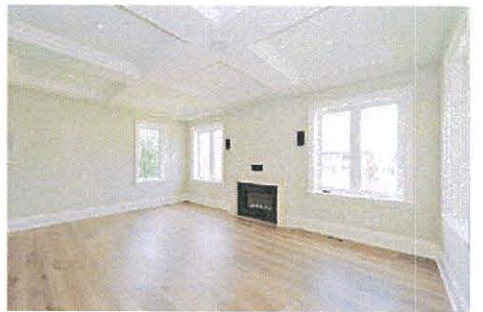
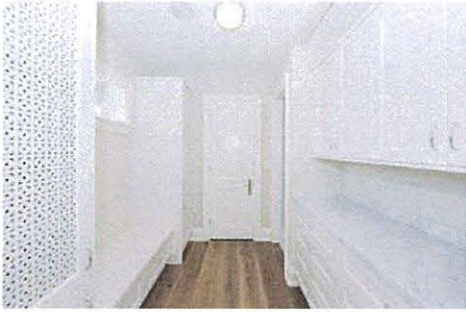
Client Remks: For Additional Property Information, Details And More Photos, Please Click On The Realtor Website Link. Come Take A Walk Inside This Beautifully 4300 Sqft Brand New Customized Estate Home. With 4 Bedrooms And 3.5 Bathrooms, Open Concept Floor Plan, And Large Principal Rooms...This House Is Generously Equipped With Features That Will Make You Want To Call It Home.

Extras:
Brkage Remks: Mere Posting. Sellers Reserve Right To Sell Themselves. Contact Seller 416-543-0853 For All Appts. Co-Op Comm Offered Paid Direct By Seller - Use Form 202 & Present Offer To Seller. Listing Brkg Only Responsible To Pay \$1. Aps, Amends & Waivers To Be Sent To L.B. To Report Sale.

MY MOVE REALTY, BROKERAGE Ph: 855-881-8680 Fax: 866-881-8680
 1 Yonge Street Suite 1801 Toronto M5E1W7
 RAVI SINGH DUHRA, Broker of Record 855-881-8680
Contract Date: 7/23/2015 **Condition:** Appt: 416-543-0853 **Ad:** Y
Expiry Date: 1/29/2016 **Cond Expiry:** **Escape:**
Last Update: 10/03/2015 **CB Comm:** 2.5% (As Per Brokerage Remarks) **Original:** \$2,499,999

N3269759
46 Puccini Dr, Richmond Hill L4E2Y6





BUDUCHNIST CREDIT UNION LIMITED
Applicant

- and -

2321197 ONTARIO INC. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF OKSANA PROCIUK
(sworn November 20, 2018)**

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77 King Street West, Suite 400
Toronto-Dominion Centre
Toronto, ON M5K 0A1

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kenneth.kraft@dentons.com

Lawyers for Buduchnist Credit Union Limited

TAB 2

Court File No. CV-18-00608356-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

**2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED and VICAR HOMES LTD.**

Respondents

**SUPPLEMENTARY AFFIDAVIT
OF OKSANA PROCIUK
(Sworn November 30, 2018)**

I, **OKSANA PROCIUK**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the President and Chief Executive Officer at Buduchnist Credit Union Limited (“**BCU**”), the Applicant in this proceeding. As such, I have personal knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.
2. This affidavit is supplementary to my Responding Affidavit sworn November 20, 2018 (“**Responding Affidavit**”) in response to the Affidavit of Carlo Demaria, sworn November 12, 2018 and to my initial Affidavit sworn on November 6, 2018 and is made for the purpose of updating the information in my earlier Affidavits. All capitalized terms used, but not defined herein, have the meanings ascribed in my Affidavit, sworn November 6, 2018, filed in this proceeding.

3. This Affidavit is sworn in support of the within application.

Mortgage/Loan Statements

4. Further to paragraph 14 of my Responding Affidavit, by email dated November 26, 2018, BCU wrote again to Carlo Demaria reminding him that the transaction history printouts containing the information he requested were available for pick up at the branch. A copy of the email, dated November 26, 2018, is attached hereto as Exhibit "A". As of this date he has not picked up or made delivery arrangements for these printouts.

No Payment or Proposal for Payment by Carlo Demaria

5. As of this date, no payments have been made to BCU in respect of the mortgage defaults for the Real Properties, with the exception the defaults in relation to the Wilson Heights Property which have been fully cured by Sandra Demaria as of today's date in accordance with the arrangements previously made by her through her counsel. Accordingly, BCU is no longer seeking the appointment of a receiver or any other relief in respect of the Wilson Heights Property.

6. As of this date, Carlo DeMaria has not made any proposal to BCU for payment of the Loans and Mortgages in respect of the Woodland Property or the Puccini Property.

COTTAGE PROPERTY

(a) Indebtedness and Security

7. Carlo and Sandra Demaria are the registered owners of the real property municipally known as 6216 Fifth Line RR #1, Egbert, Ontario (the "**Cottage Property**"). This property is a residential cottage property.

8. Carlo and Sandra Demaria granted a charge/mortgage (the “**Cottage Mortgage**”) to MCAP Mortgage Corporation (“**MCAP**”) in the principal amount of \$317,240.63, which was registered against the Cottage Property as Instrument No. SC431876 on April 28, 2006. A copy of the Cottage Mortgage, including the standard charge terms, is attached hereto as Exhibit “B”.

9. Pursuant to the Transfer of Charge, registered as Instrument No. SC734513 on May 12, 2009 against the Cottage Property, the Cottage Mortgage was assigned by MCAP to BCU. A copy of the Transfer of Charge, is attached hereto as Exhibit “C”.

10. There are no other mortgages registered against title to the Cottage Property, however the Mareva Order was registered against the Cottage Property on June 18, 2015. A copy of the title abstract in respect of the Cottage Property, dated November 30, 2018, is attached hereto as Exhibit “D”.

11. As of November 1, 2018, Carlo and Sandra Demaria are indebted to BCU, pursuant to the Cottage Mortgage, in the amount of \$179,083.37, plus costs and interest to the date of payment.

(b) Default and Demand

12. The Cottage Mortgage matured on March 30, 2017 and was not repaid or renewed. Monthly mortgage payments continued to be made following the maturity date, however Carlo and Sandra Demaria are now in default under the Cottage Mortgage for failing to (a) make monthly payments of principal and interest when due, as of November 7, 2018, and (b) pay realty taxes on the Cottage Property when due.

13. A mortgage payment delinquency letter, dated November 12, 2018, was sent by BCU to Carlo and Sandra Demaria, a copy of which is attached hereto as Exhibit "E". No payment was made in response to this letter and there was no response to this letter whatsoever.

14. A copy of the Tax Certificate issued by the Township of Essa, dated November 19, 2018, showing total realty tax arrears outstanding of \$1,300.49 is attached hereto as Exhibit "F".

15. The default under the Cottage Mortgage is continuing. By letters, dated November 21, 2018 (the "**Cottage Demand Letters**"), BCU demanded repayment of the Cottage Mortgage, plus all accrued and outstanding interest and costs, by December 1, 2018. The demand letters were accompanied by BIA Notices. Copies of the Cottage Demand Letters and BIA Notices are attached hereto as Exhibit "G".

16. As of this date BCU has not received payment or any response whatsoever to the Cottage Demand Letters.

17. In the event that BCU's demand for payment under the Cottage Mortgage is not satisfied by tomorrow, December 1, 2018, BCU intends to amend its Notice of Application and seek the appointment of a receiver over the Cottage Property. The standard charge terms, incorporated by reference into the Cottage Mortgage, contemplate the appointment of a receiver in the event of default thereunder. Attached hereto as Exhibit "H" is a draft Amended Notice of Application outlining the relief that BCU will be seeking in respect of the Cottage Property if its demand for payment is not satisfied by December 1, 2018.

18. Attached hereto as Exhibit "I" are copies of pictures taken of the Cottage Property from an appraisal dated October 15, 2008, as well as two recent pictures taken by an agent of BCU. It

appears from the recent pictures that the Cottage Property may be occupied by a tenant as the pictures show a car in the driveway, however the tenancy status of the Cottage Property and the terms of same are unknown. Pursuant to the standard charge terms, upon default, BCU is entitled to collect rents and, accordingly, any receiver appointed over the Cottage Property should have the authority to do same.

Realty Tax Arrears

19. I am advised by Esme Cragg of Dentons that she obtained the verbal updates set out below from the respective municipal offices as to the total quantum of realty tax arrears outstanding for each of the Real Properties (other than the Wilson Heights Property), plus the Cottage Property. Comparing the verbal updates on November 29, 2018 to the realty tax arrears set out in my Affidavit of November 6, 2018 (paras. 16 and 28) and my Responding Affidavit sworn November 20, 2018 (para 22) indicates that there has been no payment down of the realty tax arrears owing on the Elm Property or the Puccini Property and the realty tax arrears on the Woodland Property have not been paid in full, despite the assertion of Carlo Demaria to the contrary in paragraph 32 of his Affidavit sworn November 12, 2018.

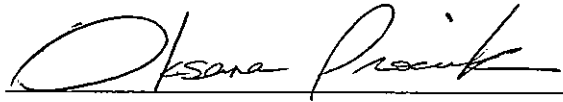
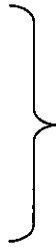
November 29, 2018 verbal updates from municipalities re quantum of tax arrears:

- (a) Elm Property – \$3,774.73;
- (b) Puccini Property - \$12,290.12;
- (c) Woodland Property - \$1,718.30; and
- (d) Cottage Property - \$1,300.49.

SWORN before me in the City of Toronto,
in the Province of Ontario, this 30th day of
November, 2018.



A Commissioner, etc.



OKSANA PROCIUK

TAB A

THIS IS EXHIBIT "A" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th DAY
OF NOVEMBER, 2018.



A Commissioner for Taking Affidavits, etc.

From: Roman Sharanewych <romanshar@buduchnist.com>

Sent: November 26, 2018 2:40 PM

To: Carlo V. DeMaria <carlo@vicarhomes.com>

Subject: FW: Information Requested -

Hello Carlo ,

Hope you are doing well on this dreary Monday . I just wanted to remind you that the statements that you requested have been available for pick up since the beginning of last week. Please let me know when you will be picking them up or when you will be sending a courier .

Best Regards ,

Roman Sharanewych

Credit Manager

BCU  Financial Group

romanshar@buduchnist.com

2280 Bloor Street West,

Toronto, Ontario

M6S 1N9

416 - 763-7025

From: Roman Sharanewych

Sent: Monday, November 19, 2018 2:26 PM

To: 'Carlo V. DeMaria'

Subject: RE: Information Requested -

Hi Carlo ,

Just finalizing the statements requested . Will be available Tuesday morning .
Will you be sending a courier to pick them up?

Best Regards,

Roman Sharanewych

Credit Manager

BCU  Financial Group

romanshar@buduchnist.com

2280 Bloor Street West,

Toronto, Ontario

M6S 1N9

416 - 763-7025

From: Carlo V. DeMaria [<mailto:carlo@vicarhomes.com>]
Sent: Friday, November 16, 2018 11:32 AM
To: Roman Sharanewych
Subject: Re: Information Requested -

Thank you Roman!!!

Carlo V. Demaria

On Nov 16, 2018, at 12:04 PM, Roman Sharanewych <romanshar@buduchnist.com> wrote:

Hi Carlo,

Hope you are doing well. I apologize for the delay but I wanted to let you know we will have the transaction history statements available for you Monday afternoon for the two accounts that your requested . 1160376 Ontario Limited and 1463549 Ontario Limited . The Statements will be available here at the Bloor branch. There will be no charge to you for this preparation.

Best regards,

Roman Sharanewych
Credit Manager
<[image001.gif](#)>
romanshar@buduchnist.com
2280 Bloor Street West,
Toronto, Ontario
M6S 1N9
416 - 763-7025

From: Carlo V. DeMaria [<mailto:carlo@vicarhomes.com>]
Sent: Friday, October 26, 2018 9:25 AM
To: Roman Sharanewych
Subject: Re: Information Requested -

Hi Roman,

Thank you for the information, can you please clarify where the remainder of both payments go, math doesn't add up.

Also I will opt for the hourly service, i can authorize you to take payment for the fees but I do not see where you can take the payments as accounts are either frozen or in OD. Let me know!!!

Regards,

Carlo V. Demaria

On Oct 25, 2018, at 5:40 PM, Roman Sharanewych <romanshar@buduchnist.com> wrote:

Hi Carlo ,

I am sorry for the delay . Please find attached answers to your questions from an e-mail that you sent on October 18, 2018.

Best Regards ,

Roman Sharanewych
Credit Manager
<image001.gif>
romanshar@buduchnist.com
2280 Bloor Street West,
Toronto, Ontario
M6S 1N9
416 - 763-7025

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

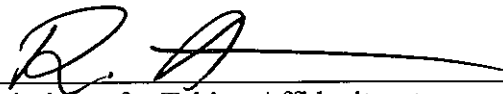
Scanned by the Clearswift SECURE Email Gateway.

www.clearswift.com

<2018_10_25_17_38_34.pdf>

TAB B

THIS IS EXHIBIT "B" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th DAY
OF NOVEMBER, 2018.

A handwritten signature in black ink, appearing to be "R. A.", written over a horizontal line.

A Commissioner for Taking Affidavits, etc.

Properties

PIN 58120 - 0162 LT *Interest/Estate* Fee Simple
Description PT E 1/2 LT 10 CON 4 ESSA TWP PT 4 RD1027 ; ESSA
Address NUMBER
 6216 FIFTH LINE
 SIMCOE

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name DE MARIA, CARLO
Address for Service 63 Mendel Crescent, Thornhill, Ontario,
 L4J 9B6

I am at least 18 years of age.

SANDRA DE MARIA and I are spouses of one another and are both parties to this document

This document is not authorized under Power of Attorney by this party.

Name DE MARIA, SANDRA
Address for Service 63 Mendel Crescent, Thornhill, Ontario,
 L4J 9B6

I am at least 18 years of age.

DE MARIA CARLO and I are spouses of one another and are both parties to this document

This document is not authorized under Power of Attorney by this party.

Chargee(s)*Capacity**Share*

Name MCAP MORTGAGE CORPORATION
Address for Service P. O. Box 351, Station C, Kitchener, Ontario, N2G 3Y9

Provisions

Principal \$317,240.63 *Currency* CDN
Calculation Period Semi-Annually, not in advance
Balance Due Date 2011/04/28
Interest Rate Bank of Montreal Prime
Payments \$1,791.29
Interest Adjustment Date 2006 04 28
Payment Date 28th day of each and every month
First Payment Date 2006 05 28
Last Payment Date 2011 04 28
Standard Charge Terms 9819
Insurance Amount Full insurable value
Guarantor N/A

Additional Provisions

See Schedules

Signed By

Monika Bochinska 201-7007 Islington Ave. acting for Chargor(s) Signed 2006 04 28
 Woodbridge L4L 4T5

Tel 905-856-7890
 Fax 9058567892

Submitted By

PICHINI & ASSOCIATES 201-7007 Islington Ave. 2006 04 28
Woodbridge L4L 4T5
Tel 905-856-7890
Fax 9058567892

Fees/Taxes/Payment

Statutory Registration Fee \$60.00
Total Paid \$60.00

File Number

Chargor Client File Number : DEM6745
Chargee Client File Number : 8131670.1

SCHEDULE F

VARIABLE INTEREST RATE -- PRIME--

In consideration of the granting of the Loan secured by this mortgage and of its conditions, the Mortgagor/Chargor agrees with the Mortgagee/Chargee as follows:

The provisions of this Schedule will be incorporated in the attached Mortgage/Charge and, to the extent inconsistent with the Standard Charge Terms forming part of this Mortgage/Charge, will amend those terms. In the event of any conflict between the provisions of this Schedule and any other provisions of the Mortgage/Charge, the provisions of this Schedule will prevail. All terms and conditions of the attached Mortgage/Charge, as varied by this Schedule, will remain in full force and effect notwithstanding the addition of this Schedule.

1. INTEREST RATE:

The interest rate payable by the Mortgagor/Chargor under this Mortgage/Charge is a variable rate which will initially be determined on the Interest Adjustment Date and will automatically be adjusted every three months, with the first adjustment occurring on the day which is three months after the Interest Adjustment Date (every day on which an adjustment is made is referred to in this Mortgage/Charge as an "Adjustment Date"). On each Adjustment Date, the interest rate payable for the next three month period will equal the Prime Rate less the appropriate discount for the applicable period associated with the VIP product selected. The interest rate will change on each Adjustment Date to reflect changes in the Prime Rate without any notice to the Mortgagor/Chargor. If weekly or bi-weekly payments are being made, the three-month adjustment date is the payment date closest to the three-month adjustment date without exceeding the three-month adjustment date. Within a reasonable time after each change in the interest rate, the Mortgagee/Chargee may mail to the Mortgagor/Chargor, at his or her last known address according to the Mortgagee/Chargee's records, a notice of the changed interest rate and its effective date. The interest rate will vary in accordance with this paragraph even if the Mortgagee/Chargee fails to send this notice or the Mortgagor/Chargor fails to receive it.

For the purposes of this Mortgage/Charge, the term "Prime Rate" means, on any day, the annual rate of interest which [Bank of Montreal] establishes at its principal office in Toronto as the reference rate of interest to determine interest rates it will charge on such day for commercial loans in Canadian dollars made to its customers in Canada and which it refers to as its "prime rate of interest".

2. PAYMENTS AFTER THE DAY OF CLOSING:

The Mortgagor/Chargor will make regular payments of principal and interest at the interest rate, calculated and compounded in accordance with this Mortgage/Charge. Installments of principal and interest will be made on the First Payment Date and will continue until the Last Payment Date set out in the Mortgage/Charge. Within a reasonable time after each change in the interest rate, the Mortgagee/Chargee may mail to the Mortgagor/Chargor, at his or her last known address according to the Mortgagee/Chargee's records, a notice of the changed installments owing under this Mortgage/Charge.

3. PREPAYMENTS:

Provided there is no default, the Mortgagor/Chargor will have the privilege of prepaying, without penalty, up to 20% of the original principal amount of the Mortgage/Charge during each 12 month period following the Interest Adjustment Date or any anniversary of such date (each such period is referred to in this paragraph as a "year"). Each prepayment must be made on a regular payment date and must be in a minimum amount of \$100. If the Mortgagor/Chargor does not use this penalty free privilege during any year, it cannot be carried forward to any following year.

In addition, provided there is no default, the Mortgagor/Chargor will have the privilege of increasing the amount of its regular payment amount by a maximum of 20% of the current principal and interest payment. This option is available once per year.

Continued

4. CONVERSION OPTION:

This Mortgage/Charge is registered for a 5-year term. If there is no default, the Mortgagor/Chargor may, at any time without penalty, convert this Mortgage/Charge to any other closed fixed rate term, at no cost, on the condition that the new term plus the time elapsed on the mortgage is equal to or greater than 5 years. On conversion, the Mortgagor/Chargor will select from the mortgage options and programs offered at the time of conversion and the Mortgagor/Chargor will sign a renewal agreement which will contain all of the amended terms and conditions of this Mortgage/Charge. The interest rate payable on conversion

will be the then best published rate offered in connection with the mortgage option and/or program selected by the Mortgagor/Chargor which is in effect on the date MCAP Service Co. receives notice of the conversion request. This best published rate will exclude any special rates that might be offered.

5. PREPAYMENT IN FULL:

At any time during the term, the Mortgage/Charge can be prepaid in full with three months interest penalty at the interest rate payable under the Mortgage/Charge on the prepayment date. Upon conversion to a term mortgage, all features and benefits of the variable mortgage are rescinded and the Mortgagor/Chargor adopts the features and benefits of the term mortgage.

6. INSPECTION:

This clause is in addition to any inspection rights granted to the Lender pursuant to the Lender's Standard Charge Terms which form part of this Mortgage. The mortgagee or any of its agents (including an agent of Canada Mortgage and Housing Corporation, hereinafter called "CMHC", if this mortgage is insured under the National Housing Act), may, at any time, before and after default, and for any purpose deemed necessary by the mortgagee or its agents, enter upon the said lands to inspect the lands and buildings thereon. Without in any way limiting the generality of the foregoing, the mortgagee or its agents may enter upon the said lands to conduct any environmental testing, site assessment, investigation or study deemed necessary by the mortgagee or its agents and the reasonable cost of such testing, assessment, investigation or study, as the case may be, with interest at the mortgage rate, shall be payable by the mortgagor forthwith and shall be a mortgage upon the said lands. The exercise of any of the powers enumerated in this clause shall not deem the mortgagee or its agents to be in possession, management or control of the said lands and buildings.

If this mortgage is insured with CMHC, it has been made pursuant to the National Housing Act.



Land Registration Reform Act, 1984
SET OF STANDARD CHARGE TERMS

Filed by MCAP Service Corporation

Filing Number: 9819

Filing Date: August 25, 1998

The following set of Standard Charge Terms shall be deemed to be included in every charge in which the set is referred to by its filing number, as provided in Section 9 of the Act.

1. INTERPRETATIONS

In these mortgage terms:

- a. All words used in this Set of Standard Charge Terms, for which an interpretation is provided in Section 1 of the Land Registration Reform Act, 1984 (the Act), have the meaning assigned to them by Section 1 of the Act, except for the words interpreted in this Section;
- b. "Balance Due Date" means the date on which the mortgage money is due and payable as shown on the mortgage form, or a revised date that the lender may establish;
- c. "borrower" means the person or persons named in the mortgage form as a Chargor;
- d. "borrower mailing address" means the postal address of the borrower shown on the mortgage form or the most recent postal address provided in a written notice given by the borrower to the lender under these mortgage terms;
- e. "borrower's promises and agreements" means any one or more of the borrower's obligations, promises and agreements contained in this mortgage;
- f. "court" means a court or judge having jurisdiction in any matter arising out of this mortgage;
- g. "default" includes each of the events of default listed in Section 9. a. of these mortgage terms;
- h. "First Payment Date" means the date on which the first instalment payment is payable as shown on the mortgage form, or a revised date that the lender may establish;
- i. "guarantor" means each person who signs the mortgage form as a Guarantor;
- j. "instalment payment" means the amount of each periodic payment shown on the mortgage form, or a revised amount that the lender may establish;
- k. "instalment payment date" means each payment date commencing on the First Payment Date shown on the mortgage form, or a revised date that the lender may establish;
- l. "interest" means interest at the interest rate shown on the mortgage form;
- m. "Interest Adjustment Date" means the Interest Adjustment Date shown on the mortgage form, or a revised date that the lender may establish;
- n. "interest calculation period" means the period or periods for the calculation of interest shown on the mortgage form;
- o. "interest rate" means the interest rate shown on the mortgage form, or a revised rate that the lender may establish;
- p. "land" means all the borrower's present and future interest in the land described in the mortgage form including every incidental right, benefit or privilege attaching to that land or running with it and all buildings and improvements that are now or later constructed on or made to that land;
- q. "Last Payment Date" means the date on which the last instalment payment is due as shown on the mortgage form, or a revised date that the lender may establish;
- r. "lease" means the leasehold interest, if any, of the borrower referred to in the mortgage form;
- s. "lender" means the person or persons named in the mortgage form as a Chargee and includes any person to whom the lender transfers this mortgage;
- t. "lender mailing address" means the postal address shown on the mortgage form or the most recent postal address provided in a written notice given by the lender to the borrower under these mortgage terms;
- u. "Maturity Date" means the Balance Due Date shown on the mortgage form, or a revised date that the lender may establish, and is the date on which all unpaid mortgage money is due and payable, or such earlier date on which the lender can lawfully require payment of the mortgage money;
- v. "mortgage" means this Charge/Mortgage of Lands made pursuant to the Land Registration Reform Act, 1984 to which the borrower and the lender are parties; which mortgage consists of the mortgage form, any amendments contained in it, and these standard charge terms, together with any amendments from time to time made afterward by the borrower and the lender in writing;
- w. "mortgage form" means Form 2 established by the Regulations of the Act and all schedules and addenda to Form 2;
- x. "mortgage money" means the principal amount, interest and any other money owed by the borrower under this mortgage, the payment of which is secured by this mortgage;
- y. "place of payment" means the place of payment shown on the mortgage form or any other place specified in a written notice given by the lender to the borrower under these mortgage terms;

- z. "principal amount" means the amount of money shown as the principal amount on the mortgage form as reduced by payments made by the borrower from time to time, or increased by the advance or readvance of money to the borrower by the lender from time to time, and includes all money that is later added to the principal amount under these mortgage terms;
- aa. "receiver" means a receiver or receiver manager appointed by the lender under this mortgage;
- ab. "taxes" includes all taxes, rates and assessments of every kind which are now or afterward payable by any person in connection with this mortgage, the land or its use and occupation, or arising out of any transaction between the borrower and the lender, but does not include the lender's income tax; taxes will be deemed to be due on the day on which they are levied by the applicable authority;

In this mortgage, the singular includes the plural and vice versa.

2. WHAT THIS MORTGAGE DOES:

- a. In return for the lender agreeing to lend the principal amount to the borrower, the borrower grants and mortgages the land to the lender as security for repayment of the mortgage money and for performance of all the borrower's promises and agreements.
- b. If the interest mortgaged is described in the mortgage form as a leasehold interest, the grant in Subsection a will be construed as a charge of the unexpired term of the lease less the last month of that term.
- c. This means that:
 - 1) this mortgage will be a charge on the land, and
 - 2) the borrower releases to the lender all the borrower's claim to the land until the borrower has paid the mortgage money to the lender, in accordance with these mortgage terms, and has performed all of the borrower's promises and agreements.
- d. The borrower may continue to remain in possession of the land as long as the borrower performs all of the borrower's promises and agreements.
- e. When the borrower has paid the mortgage money and performed all the borrower's promises and agreements under this mortgage and the lender has no obligation to make any further advances, or readvances, the lender will no longer be entitled to enforce any rights under this mortgage and the borrower will be entitled, upon payment of the lender's discharge fee, to receive a discharge of this mortgage. The discharge must be signed by the lender and must be registered by the borrower in the Land Registry Office to cancel the registration of this mortgage against the land.

3. INTEREST

- a. Interest is chargeable on the mortgage money and is payable by the borrower.
- b. Interest is not payable in advance. This means that interest must be earned before it is payable.
- c. Until the Interest Adjustment Date, interest is chargeable on the principal amount advanced from time to time, starting from and including the date of advances until, but not including, the Interest Adjustment Date and will, at the lender's option, become due and payable in regular instalments commencing on the first day of the month following the first advance and continuing on the first day of each subsequent month. The balance, if any, of interest on advances will be due and payable on the Interest Adjustment Date.

At the lender's option, interest on advances may be deducted from any advance.
- d. After the Interest Adjustment Date, interest is calculated in accordance with the calculation period shown on the mortgage form, not in advance, as well after as before the Balance Due Date.
- e. In any case where interest is calculated on a daily basis, simple interest may be charged.
- f. At the end of each calculation period, unpaid interest will be added to the principal amount and bear interest. This is known as compound interest.
- g. All required interest or compound interest will be a charge on the land and secured by this mortgage.

4. PAYMENT OF THE MORTGAGE MONEY

- a. The borrower promises to pay the mortgage money, in lawful money of Canada, to the lender at the place of payment in accordance with the payment provisions set out in the mortgage form and these mortgage terms.
- b. The instalment payment is due and payable as set out in the mortgage form regardless of the principal amount advanced at the instalment payment date.
- c. Where the full principal amount is not advanced, the instalment payment may, at the lender's option, be reduced proportionately.
- d. The borrower promises to arrange for instalment payments to be made by using the lender's pre-authorized cheque plan.
- e. The balance, if any, of the mortgage money will be due and payable on the Balance Due Date shown on the mortgage form.
- f. Any additional principal payment which is received on a day other than an instalment payment date, may not be credited for the purpose of calculating interest on the principal amount until the next ensuing instalment payment date.
- g. The amount of the instalment payment will not change as a result of additional principal payments.
- h. This mortgage cannot be prepaid except as expressly permitted under this mortgage.

5. EARLY RENEWAL PRIVILEGES

- a. Provided there is no default under this mortgage the borrower has the privilege of renewing this mortgage on any instalment payment date during the original term, by selecting a renewal option that the lender is offering at the date of the borrower's selection and on payment of the interest rate differential and an early renewal processing fee. Any renewal option selected must result with a Balance Due Date equal to or greater than the Balance Due Date shown on the mortgage form;
- b. The interest rate differential referred to in Subsection a. is the amount of money the lender requires, on the interest rate change date, to compensate the lender for the loss of interest income which results from a lower rate of interest on a replacing loan for the remainder of the original term. It is calculated after determining the difference between the rate of interest in this mortgage and the rate of interest for a replacing mortgage loan for the mortgage term the borrower selects.

6. RENEWAL

- a. In the event that the lender agrees to renew or extend the term of this mortgage, such renewal or extension, including the interest rate, term, instalment payment and other stipulations of such renewal or extension, will be binding upon the borrower and all subsequent mortgages, encumbrances and other interests in or of the land subsequent to this mortgage ("Subsequent Encumbrances"), and will take full priority over all Subsequent Encumbrances, whether or not the said renewal or extension is filed or recorded by notice at the applicable Land Registry Office and whether or not the interest rate payable or amortization period applicable during the renewal or extension term is greater than or less than the interest rate or amortization period stipulated in this mortgage. The borrower will, forthwith at the lender's request, provide to the lender, at the borrower's expense, all such postponements and other assurances as the lender may require to ensure the foregoing binding effect and priority.
- b. All legal and administrative fees, expenses and costs related to renewals or extensions of this mortgage are payable by the borrower and they are secured by this mortgage.

7. PROMISES OF THE BORROWER

- a. The borrower promises:
 - 1) to at all times have good and valid title in fee simple to the land free of all encumbrances and claims other than those expressly permitted by the lender;
 - 2) to comply with all the terms and conditions of any charge or encumbrance that ranks ahead of this mortgage;
 - 3) to keep all buildings and improvements which form part of the land in good condition and to repair them as the lender reasonably requires;
 - 4) to sign any other document that the lender reasonably requires to ensure that payment of the mortgage money is secured by this mortgage or by any other document the borrower has agreed to give as security;
 - 5) not to do anything that has the effect of reducing the value of the land;
 - 6) not to tear down any building or part of a building which forms part of the land without the written consent of the lender;
 - 7) not to make any alteration or improvement to any building which forms part of the land without the written consent of the lender;
 - 8) if the borrower has rented the land to a tenant, to keep, if the lender requires, records of all rents received and of all expenses paid by the borrower in connection with the land and, at least annually, have a statement of revenue and expenses for the land prepared by a professional accountant, if the lender requires, and to give a copy of the statement to the lender, if the lender requires the borrower to do so;
 - 9)
 - a) to pay all taxes as they fall due,
 - b) to pay all utility and fuel charges related to the land when they are due,
 - c) to not allow the supply of utilities or fuel to be interrupted or discontinued, and
 - d) that if the supply of utilities or fuel is interrupted for any reason, to ensure that it is restored;
 - 10) to pay all of the lender's administrative fees which it charges from time to time and all of the lender's expenses and costs, including legal fees, on a solicitor and client basis, including, and without limiting, all fees, expenses and costs to:
 - a) prepare and register this mortgage, including all necessary steps to advance and secure the mortgage money and to report to the lender,
 - b) collect the mortgage money,
 - c) enforce the terms of this mortgage, including efforts to compel the borrower to perform the borrower's promises and agreements,
 - d) do anything which the borrower has promised to do but has not done,
 - e) prepare and give the borrower a discharge of this mortgage when the borrower has paid all money due under this mortgage and the borrower wants it to be discharged, and
 - f) amend this mortgage;
 - 11) to pay any money which, if not paid, would result in a default under any charge or encumbrance having priority over this mortgage or which might result in the sale of the land if not paid;
 - 12) to pay and cause to be discharged any charges or encumbrances which are not permitted by the lender under this mortgage.

- 13) to provide, at the lender's request, full particulars and supporting documentation pertaining to:
 - a) the borrower's status as a spouse as defined by Section 1(1) of the Family Law Act, R.S.O. 1990, as amended,
 - b) the name, address and birth date of the borrower's spouse and the authorization of the borrower's spouse to the Registrar under the Vital Statistics Act of Ontario to provide to the lender all information in its possession regarding the borrower's and the borrower's spouse's marriage, divorce or death,
 - c) the qualification of the land as a matrimonial home within the meaning of Part II of the Family Law Act, R.S.O. 1990, as amended,
 - d) the ownership of the land,
 - e) any change in the information disclosed to the lender in this Section.
- 14) to insure and keep insured against the risk of fire and other risks and hazards that the lender asks the borrower to insure against, with an insurance company licensed to do business in Ontario and which company the lender approves, all buildings and improvements on the land to their full insurable value on a replacement cost basis and to pay all insurance premiums when due;
- 15) to send a copy of each insurance policy and renewal certificate to the lender at the place of payment;
- b. The insurance policy or policies required by Subsection a. 14) will contain a mortgage clause approved by the lender that states that payment of any loss will be made to the lender at the place of payment or any other place the lender requires and, if this mortgage is not a first mortgage, the amount of any payment made by the insurance company will be paid to the borrower's lenders in the order of their priorities. The borrower will, forthwith upon the happening of any loss or damage, furnish at its expense all necessary proofs and do all acts necessary to enable the lender to obtain payment of the insurance monies. Any insurance monies received by the lender may, at the option of the lender, be applied in whole or in part to: (i) repairing or rebuilding the land, (ii) the payment of all or any part of the mortgage money, whether or not then due or payable; and/or (iii) payment to the borrower.
- c. The borrower gives up any statutory right to require the insurance proceeds to be applied in any particular manner.
- d. The borrower declares to the lender that:
 - 1) the borrower owns the land and has the right to mortgage the land to the lender;
 - 2) the borrower's title to the land is subject only to:
 - a) those charges and encumbrances that are expressly permitted by the lender, and
 - b) any unregistered charges and encumbrances that the lender has agreed to in writing;
 - 3) subject to Subsection 2), the borrower:
 - a) has not given any other charge or encumbrance against the land, and
 - b) has no knowledge of any other claim against the land; and
 - 4) the borrower will not use the land or permit it to be used, without the lender's consent, for purposes other than those disclosed to the lender in the application for the mortgage loan.
- e. If the borrower fails to perform any obligation under this mortgage, the lender may, in its absolute discretion, perform that obligation or retain agents to do so. If that obligation requires the payment of money or if the land is at any time subject to any lien or encumbrance, the lender may make payments and pay or arrange to discharge encumbrances, but is under no obligation to do so. The borrower will pay forthwith on demand to the lender all amounts paid by the lender in connection with the performance by the lender of the borrower's obligations and all fees, costs and expenses of the lender of every kind, together with interest from the date of payment by the lender at the greater of the interest rate on the mortgage or the annual prime rate quoted by the Bank of Montreal plus 3% per annum, calculated daily until paid in full. All such amounts outstanding will be secured by this mortgage. No performance or payment by the lender relieves the borrower from any default under this mortgage or any consequences of that default. If the lender makes any payment or performs any obligation on behalf of the borrower, the lender is entitled to all rights, equities and securities of the person paid or satisfied and the lender is entitled to rely upon any statement given by such person as to the amount due to him.

8. AGREEMENTS BETWEEN THE BORROWER AND LENDER

- a. The lender may, at its option, allow the borrower to pay all taxes when they are due.
- b. The lender may, at its option, elect to pay taxes in which case the following will apply:
 - 1) the lender will pay the total amount of taxes on or before the due date, or if taxes are payable in instalments on or before the due date for payment of the first instalment;
 - 2) the lender may deduct from the final advance of the principal amount, an amount sufficient to pay taxes which are due or will become due by the Interest Adjustment Date;
 - 3) the lender may, at its option, if the lender has not received sufficient money to pay taxes as they become due, disburse monies to pay taxes and which disbursements are secured by this mortgage;
 - 4) the borrower will pay to the lender in instalments, together with the instalment payment shown on the mortgage form, commencing on the First Payment Date, an amount which the lender estimates to be needed to enable it to pay taxes as set out in this Section;
 - 5) the borrower will pay to the lender on demand, the amount, if any, by which actual taxes exceed the lender's estimates;
 - 6) the lender will, using the balance in the tax account on the date the lender calculates the interest and principal portion of any instalment payment:
 - a) allow to the borrower interest on balances in the borrower's favour, at a rate of interest which the lender may determine from time to time, and which rate of interest will never be less than the prevailing rate of interest allowed by the chartered banks on personal savings accounts with chequing privileges, and
 - b) charge to the borrower interest on balances in the lender's favour, at the interest rate shown on the mortgage form;

- 7) allowances or charges will not be made less frequently than once each year;
 - 8) the lender will apply amounts received from the borrower for taxes, to pay taxes, as long as the borrower is not in default under this mortgage. If the borrower is in default under this mortgage, the lender may apply any balance in the borrower's favour, in any manner the lender thinks reasonable;
 - 9) the borrower will forward to the lender, immediately upon receipt, the assessment notices, tax bills and other notices affecting the land. Any penalties which are levied against the land because of late payment of taxes are the borrower's responsibility, unless neglect on the lender's part is the reason for penalties;
 - 10) the borrower is responsible for applying for all government grants, assistance and rebates in respect of taxes.
- c. The lender may, at its option, discontinue paying taxes and require the borrower to pay all taxes when they are due.
 - d. If Subsections a. or c. apply, the borrower will provide the lender with the receipt of taxes of the municipality in which the land is located, within 30 days from the date of final payment for that year. Failure to provide the required receipt will entitle the lender to obtain evidence of payment from the municipality and any costs incurred are payable by the borrower and they are secured by this mortgage.
 - e. By this mortgage, the borrower grants and mortgages any additional or greater interest in the land that the borrower may later acquire.
 - f. Any money paid to the lender under this mortgage will:
 - 1) prior to a default, be applied first in payment of taxes and mortgage life insurance, if applicable, secondly in payment of interest, thirdly in payment of the principal amount and fourthly in payment of all other money owed by the borrower under this mortgage, and
 - 2) after a default, be applied in any manner the lender chooses.
 - g. The lender may at any reasonable time inspect the land and any buildings and improvements which form part of it.
 - h. If the lender takes possession of the land, the lender will not be responsible for maintaining and preserving the land and need only account to the borrower for any money which the lender actually receives in connection with this mortgage or the land.
 - i. The lender may spend money to perform any of the borrower's promises and agreements which the borrower has not performed and any money so spent will be added to the principal amount, bear interest from the date that the money was so spent in accordance with section 7e, and be immediately due and payable to the lender.
 - j. If the borrower wants to give any notice to the lender, the borrower must do so by having it delivered to the lender personally or by sending it by registered or certified mail to the lender mailing address or to any other address later specified in writing by the lender to the borrower.
 - k. If the lender wants to give any notice to the borrower, the lender must do so by having it delivered to the borrower personally or by sending it by registered or certified mail to the borrower's mailing address or to any other address later specified in writing by the borrower to the lender.
 - l. Any notice sent by mail is considered to have been received 5 days after it is mailed.
 - m. Any notice to be given by the borrower to the lender or vice versa during a mail strike or disruption must be delivered in person or by courier, at the expense of the sender, rather than sent by mail.
 - n. The borrower is not released from the borrower's promises and agreements only because the borrower sells the land.
 - o. If the borrower has mortgaged anything else to the lender better to secure payment of the mortgage money, the lender may take all lawful proceedings under any of the mortgages in any order that the lender chooses.
 - p. The lender does not have to advance or readvance the principal amount or the rest or any further part of the principal amount to the borrower unless the lender wants to, even though:
 - 1) the borrower has signed this mortgage;
 - 2) this mortgage is registered in the Land Registry Office; or
 - 3) the lender has advanced to the borrower part of the principal amount.
 - q. The lender may deduct from any advance of the principal amount:
 - 1) any liens against the land;
 - 2) any reasonable fees, charges or expenses incurred in inspecting or in evaluating the land;
 - 3) any discounts or bonuses on which the borrower and lender agree; and
 - 4) any insurance premium and applicable taxes.
 - r. The lender's right of consolidation applies to this mortgage and to any other mortgages given by the borrower to the lender. This means that if the borrower has mortgaged other property to the lender, the borrower will not have the right, after default, to pay off this mortgage or any mortgage of other property unless the borrower pays the lender all money owed by the borrower under this mortgage and all of the mortgages of other property.
 - s. The lender may, at any time, release part of the land on payment of all or any part of the mortgage money.
 - t. The lender may, at any time, release, in whole or in part the borrower or any guarantor from any promise from any promise or agreement or other security, either with or without compensation, and the lender is not accountable for the value related to any release or for any money other than money actually received by the lender. After any release, the remaining land, promises and agreements and other securities remain charged with the entire mortgage money secured by this mortgage.
 - u. The lender may demand repayment of the remaining principal amount, for any of the reasons set out in Section 9.

- v. The lender may, at its option, allow the borrower to change the instalment payment frequency shown in the mortgage form by selecting a payment frequency that the lender is offering at the date of the borrower's selection, in which case the following will apply:
 - 1) if the instalment payment frequency selected is weekly or bi-weekly, then the instalment payment day must be between Monday and Friday, inclusive;
 - 2) the maximum amortization period allowable is the remaining equivalent monthly amortization period, at the effective date of any such change;
 - 3) should default occur, the lender may, at its option, withdraw the borrower's privilege of using an instalment payment frequency other than monthly;
 - 4) interest required to establish a revised instalment payment date resulting from an instalment payment frequency change, whether initiated by the borrower or by the lender, is payable by the borrower on or prior to the effective date of any such change;
 - 5) the lender may, at its option, charge an administration fee to change the instalment payment frequency if the borrower requests the change at a time other than at the origination or renewal of this mortgage or at the date the borrower purchases the land.
- w. The borrower understands and agrees that the borrower's acceptance of the lender's offer to provide mortgage financing is a separate and binding agreement and that it does not become part of this mortgage.
- x. The borrower understands and agrees that:
 - 1) if the borrower sells, conveys, transfers or enters into any agreement of sale or transfer of the lands covered by this mortgage; or
 - 2) if a purchaser of the lands covered by this mortgage fails to apply for and receive the lender's written approval of the sale, conveyance or transfer;

then the mortgage money will become due and payable, together with any fees, charges and expenses, including any interest rate differential as described in Section 5.b. of this mortgage.

9. DEFAULTS

- a. A default occurs under this mortgage if:
 - 1) the borrower breaks any of the borrower's promises and agreements;
 - 2) the borrower breaks any promise or agreement which the borrower has made to the lender in a mortgage of any other land or other property or in any other agreement the borrower has made with the lender even though the borrower may not have broken any of the borrower's promises and agreements in this mortgage;
 - 3) the borrower does not pay any instalment payment on the instalment payment date;
 - 4) the borrower or any guarantor becomes insolvent or commits an act of bankruptcy, a petition is filed or an assignment is made under any present or future bankruptcy or insolvency legislation against the borrower or a guarantor, or a receiver or receiver-manager of the borrower or any guarantor is appointed or a proposal is made to the creditors of the borrower or any guarantor under any such bankruptcy legislation or a borrower or guarantor is wound up, dissolved or liquidated or resolves to do so;
 - 5) the land is abandoned or is left unoccupied for 30 or more consecutive days;
 - 6) the land or any part of it is sold or expropriated;
 - 7) the borrower gives another mortgage of the land to someone other than the lender without the prior written consent of the lender;
 - 8) the borrower does not discharge any judgement registered in the Land Registry Office against the land within 30 days after receiving notice of its registration;
 - 9) the borrower allows any construction lien or claim of builders lien to remain undischarged on title to the land for more than 30 days unless the borrower:
 - a) diligently disputes the validity of the claim by taking all necessary legal steps to do so,
 - b) gives reasonable security to the lender to pay the claim in full if it is found to be valid, and
 - c) authorizes the lender to use the security to pay the lien in full;
 - 10) the borrower allows the land to deteriorate so as to reduce the value of the land;
 - 11) the lender discovers that any information supplied to the lender in connection with the borrower's application for mortgage financing, or in response to conditions set out in the lender's offer to provide mortgage financing, is false or misleading in any material way.
- b. If a default occurs under this mortgage, it will have the same effect as though a default had occurred under any other mortgage or agreement between the borrower and the lender.

10. CONSEQUENCES OF A DEFAULT

- a. If a default occurs, all the mortgage money then owing to the lender will be, if the lender chooses, due and payable, including without limitation all of the lender's fees, costs and expenses.
- b. If a cheque is returned by the borrower's bank on which a payment to be applied to his mortgage is drawn, the lender has the right to collect from the borrower all fees, expenses and costs incurred to compensate the lender for the returned cheque.
- c. If a default occurs, the lender may, in any order that the lender chooses, do any one or more of the following:
 - 1) demand payment of all the mortgage money;
 - 2) sue the borrower for the amount of money due;

- 3) take proceedings and any other legal steps to compel the borrower to keep the borrower's promises and agreements;
 - 4) enter upon and take possession of the land;
 - 5) sell the land and other property by public auction or private sale, or lease the land on terms decided by the lender:
 - a) on 35 days' notice to the borrower if the default has continued for 15 days, or
 - b) without notice to the borrower if the default has continued for 60 days or more;
 - 6) exercise the rights set out in Subsection c. 5) without entering into possession of the land;
 - 7) apply to the court for an order that the land be sold on terms approved by the court;
 - 8) apply to the court to foreclose the borrower's interest in the land so that when the court makes its final order of foreclosure, the borrower's interest in the land will be absolutely vested in and belong to the lender;
 - 9) appoint a receiver of the land;
 - 10) enter upon and take possession of the land without the permission of anyone and make any arrangements the lender considers necessary to:
 - a) inspect, lease, collect rents or manage the land,
 - b) complete the construction of any building on the land, or
 - c) repair any building on the land;
 - 11) take whatever action is necessary to take, recover and keep possession of the land.
- d. Nothing in Subsection c. affects the jurisdiction of the court.
- e. If the lender sells the land by public auction or by private sale, the lender will use the amount received from the sale to pay:
- 1) any real estate agent's commission;
 - 2) all adjustments usually made on the sale of land;
 - 3) all of the lender's fees, expenses and costs described in Subsection g., and
 - 4) the mortgage money;
- and will pay any surplus:
- 5) according to an order of the court if the land is sold by an order of the court, or
 - 6) to the borrower if the land is sold other than by an order of the court.
- f. If the money available to pay the mortgage money after payment of the commission, adjustments and expenses referred to in Subsection e. 1) to 3) is not sufficient to pay all the mortgage money, the borrower will pay to the lender on demand the amount of the deficiency.
- g. The borrower will pay to the lender on demand, all fees, expenses and costs incurred by the lender in enforcing this mortgage. These expenses and costs include the lender's cost of taking and keeping possession of the land, the cost of the time and services of the lender or the lender's employees for so doing, the lender's legal fees and disbursements on a solicitor and client basis, unless the court allows legal fees and disbursements be paid on a different basis, and all other costs and expenses incurred by the lender to protect the lender's interest under this mortgage. These fees, expenses and costs will be added to the principal amount, be payable on demand and bear interest until they are fully paid.
- h. If the lender obtains judgement against the borrower as a result of a default, the remedies described in Subsection c. may continue to be used by the lender to compel the borrower to perform the borrower's promises and agreements. The lender will continue to be entitled to receive interest on the mortgage money until the judgement is paid in full.
- i. If the lender does not exercise any of the lender's rights on the happening of a default or does not ask the borrower to cure it, the lender is not prevented from later compelling the borrower to cure that default or exercising any of those rights in connection with that default or any later default of the same or any other kind.
- j. Upon default of payment of any principal monies hereby secured at the time or times herein provided, the lender shall be entitled to require, in addition to all monies payable in accordance with this mortgage, a bonus equal to three (3) month's interest in advance on the said principal monies and the borrower shall not be entitled to require a discharge of this mortgage without such payment. Nothing herein contained shall effect or limit the right of the lender to recover by action or otherwise the principal money so in arrears after default has been made.

11. CONSTRUCTION OF BUILDINGS OR IMPROVEMENTS

- a. The borrower will not construct, alter or add to any buildings or improvements on the land without the prior written consent of the lender, and then only in accordance with accepted construction standards, building codes and municipal or government requirements and plans and specifications approved by the lender.
- b. If this mortgage is intended to finance any construction, alteration or addition, the lender may make advances of the principal amount to the borrower based on the progress of construction. The lender will decide whether or not any advances will be made, the amount of the advances, and when they will be made.

12. LEASEHOLD MORTGAGE

- a. This section applies if the interest mortgaged shown on the mortgage form is or includes a leasehold interest.
- b. The borrower represents to the lender that:
 - 1) the lease is owned by the borrower subject only to those charges and encumbrances that are registered in the Land Registry Office at the time the borrower signed the mortgage form;

- 2) the lease is in good standing;
 - 3) the borrower has complied with all the borrower's promises and agreements contained in the lease;
 - 4) the borrower has paid all rent that is due and payable under the lease;
 - 5) the lease is not in default; and
 - 6) the borrower has the right to mortgage the lease to the lender.
- c. The borrower will:
- 1) comply with the lease and not do anything that would cause the lease to be terminated;
 - 2) immediately give to the lender a copy of any notice or request received from the landlord;
 - 3) immediately notify the lender if the landlord advises the borrower of the landlord's intention to terminate the lease before the term expires; and
 - 4) sign any other document the lender requires to ensure that any greater interest in the land that is acquired by the borrower is charged by this mortgage.
- d. Any default under the lease is a default under this mortgage.
- e. The borrower promises the lender that the borrower will not, without first obtaining the written consent of the lender:
- 1) surrender or terminate the lease; or
 - 2) agree to change the terms of the lease.
- f. The lender may perform any promise or agreement of the borrower under the lease.
- g. Nothing done by the lender under this Section will make the lender a mortgagee in possession.
- 13. RECEIVER**
- a. The borrower appoints both the lender and any agent of the lender as the borrower's attorney to appoint a receiver of the land.
- b. The lender or the lender's agent may, if any default happens, appoint a receiver of the land and the receiver:
- 1) will be the borrower's agent and the borrower will be solely responsible for the receiver's acts or omissions;
 - 2) has power, either in the borrower's name or in the name of the lender, to demand, recover and receive income from the land and start and carry on any action or court proceeding to collect that income;
 - 3) may give receipts for income which the receiver receives;
 - 4) may carry on any business which the borrower conducted on the land;
 - 5) may lease or sublease the land or any part of it on terms and conditions that the receiver chooses;
 - 6) may complete the construction of or the repair of any building or improvement on the land;
 - 7) may take possession of all or part of the land;
 - 8) may manage the land and maintain it in good condition;
 - 9) has the power to perform, in whole or in part, the borrower's promises and agreements; and
 - 10) has the power to do anything that, in the receiver's opinion, will maintain and preserve the land or will increase or preserve the value or income potential of the land or the borrower's business on the land.
- c. From income received, the receiver may do any of the following in any order the receiver chooses:
- 1) retain a commission of 5% of the gross income or any higher commission approved by the court;
 - 2) retain enough money to pay or to recover the cost to collect the income and to cover other disbursements;
 - 3) pay all taxes and the cost of maintaining the land in good repair, completing the construction of any building or improvement on the land, supplying goods, utilities and services to the land and taking steps to preserve the land from damage by weather, vandalism or any other cause;
 - 4) pay any money that might, if not paid, result in a default under any charge or encumbrance having priority over this mortgage or that might result in the sale of the land if not paid;
 - 5) pay taxes in connection with anything the receiver is entitled to do under this mortgage;
 - 6) pay interest to the lender that is due and payable;
 - 7) pay all or part of the principal amount to the lender whether or not it is due and payable;
 - 8) pay any other money owed by the borrower under this mortgage;
 - 9) pay insurance premiums.
- d. The receiver may borrow money for the purpose of doing anything the receiver is authorized to do.
- e. Any money borrowed by the receiver, and any interest charged on that money and all the costs of borrowing, will be added to and be part of the mortgage money.
- f. A receiver appointed by the lender may be removed by the lender and the lender may appoint another in the receiver's place.
- g. The commission and disbursements of the receiver will be a charge on the land and will bear interest at the interest rate.
- h. Nothing done by the receiver under this Section will make the lender a mortgagee in possession.

14. CONDOMINIUM PROVISIONS

- a. This Section applies if the land described in the mortgage form is or becomes a condominium unit which is a part of a condominium property and the Condominium Act, R.S.O. 1980, as amended, and definitions in that Act will apply, as well as this Section.
- b. The borrower promises the lender that:
 - 1) the borrower will fulfill all the borrower's obligations as a condominium unit owner under the Condominium Act and the bylaws, rules and regulations of the Condominium Corporation and will pay all money owed by the borrower to the Condominium Corporation;
 - 2) the borrower's breach of any of the borrower's obligations as a condominium unit owner will constitute a breach of the borrower's obligations under this mortgage;
 - 3) the borrower has the right to exercise the borrower's rights as an owner of the land, to vote or to consent in all matters relating to the Condominium Corporation provided that,
 - a) the lender may, at any time or from time to time, give written notice to the borrower and to the Condominium Corporation that the lender intends to exercise its right to vote or to consent and in that event, until the lender revokes its notice, the borrower may not exercise the right to vote. Any such notice may be for an indeterminate period of time or for a limited period of time or for a specific meeting or matter,
 - b) the lender's exercising of the right to vote or to consent will not make the lender a mortgagee in possession;
 - 4) at the request of the lender, the borrower will give the lender copies of all notices, financial statements, proof of payment of common expenses, and other documents given by the Condominium Corporation to the borrower;
 - 5) the borrower will insure all improvements to the condominium unit and should the Condominium Corporation fail to insure the land as required, the borrower will insure common and other interests in the land or assets of the Condominium Corporation;
 - 6) the borrower appoints the lender to be the borrower's agent to inspect or to obtain copies of any records or other documents of the Condominium Corporation that the borrower is entitled to inspect or to obtain;
 - 7) if the Condominium Corporation transfers, charges or adds to the common property, or amends the bylaws without the consent of the lender, and if, in the lender's opinion, the value of the land is reduced, the mortgage money will be, at the lender's option, due and payable to the lender on demand.

15. SUBDIVISION

- a. If the land is subdivided:
 - 1) this mortgage will charge each subdivided lot as security for payment of all the mortgage money; and
 - 2) the lender is not required to discharge this mortgage as a charge on any of the subdivided lots unless all the mortgage money is paid.
- b. Even though the lender is not required to discharge any subdivided lot from this mortgage, the lender may agree to do so in return for payment of all or a part of the mortgage money. If the lender discharges a subdivided lot, this mortgage will continue to charge the subdivided lot or lots that have not been discharged.

16. GUARANTOR'S PROMISES AND AGREEMENTS

Each guarantor, in consideration of the lender making the loan to the borrower intended to be secured by this mortgage, by signing this mortgage:

- a. in addition to its obligations under sub-paragraphs (b) and (c), agrees to be liable with the borrower as principal debtor and not as surety for the due payment of the mortgage money, at the times and in the manner provided for in this mortgage;
- b. in addition to its obligations under sub-paragraphs (a) and (c), unconditionally guarantees full performance and discharge by the borrower of all of the obligations of the borrower under this mortgage at the times and in the manner provided for in this mortgage;
- c. in addition to its obligations under sub-paragraphs (a) and (b), will indemnify and save the lender harmless from and against all losses, damages, costs and expenses which the lender may sustain, incur or be or become liable for in respect of the loan secured by this mortgage, including:
 - 1) the failure, for any reason, of the borrower to pay the mortgage money or to do any other act, matter or thing pursuant to the provisions of this mortgage; and
 - 2) any act, action or proceeding of or by the lender for or in connection with the recovery of the mortgage money or any part thereof or obtaining performance by the borrower or any other person of any other act, matter or thing pursuant to the provisions of this mortgage;
- d. agrees that the lender may, at any time and without notice to, or consent or concurrence by any guarantor, renew the mortgage on the same or different terms, make any settlement, compromise, composition, extension, alteration or variation in the terms of the mortgage, including any increase in the interest rate or principal amount secured by this mortgage, or take, release or surrender any security, or otherwise deal with the borrower and that no such dealing by the lender nor any carelessness or neglect by the lender in asserting its rights nor any other thing whatsoever, including, without in any way limiting the generality of the foregoing, failure to register or perfect any security, the loss by operation of law of any right of the lender against the borrower or any other person or the loss or destruction of any security nor any dissolution, winding up, receivership, insolvency of the borrower or any other guarantor or person in any way releases or diminishes the liability of the guarantor under this mortgage;
- e. agrees that the lender will not be obliged to proceed against the borrower or any other person or to enforce or exhaust any security before proceeding to enforce the obligations of any guarantor set out in this mortgage, and that enforcement of those obligations may take place before, after or contemporaneously with the enforcement of any debt or obligation of the borrower or the enforcement of any security for that debt or obligation; and

- f. agrees with the lender to be jointly and severally liable under this mortgage with the borrower and all other guarantors.

Each guarantor's obligations will be binding upon the guarantor's successors, assigns, personal representatives and administrators.

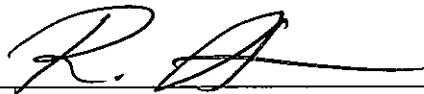
17. GENERAL

- a. This mortgage binds the borrower and the guarantor and their successors, executors, administrators and assigns.
- b. Each person who signs this mortgage as a borrower is jointly and severally liable for all of the borrower's promises and agreements as though each such borrower had been the only borrower to sign.
- c. If any part of this mortgage is not enforceable, all other parts will remain in effect and be enforceable against the borrower and any guarantor.
- d. The implied covenants deemed to be included in this mortgage by clauses 7 (1) 1. iii and 7 (1) 2. of the Land Registration Reform Act, 1984 are varied by deleting the words "except as the records of the land registry office disclose" and substituting the words "except for encumbrances expressly permitted by the lender". The implied covenant deemed to be included in this mortgage by clause 7 (1) 1. vii. of the Land Registration Reform Act, 1984 is varied to provide that "the borrower or the borrower's successors will, before and after default, execute and deliver such further assurances of the land and do such other acts, at the borrower's expense, as may be required by the lender". The implied covenants deemed to be included in this mortgage under sub-section 7 (1) of the Land Registration Reform Act, 1984, as amended by this section, are in addition to and will not be interpreted to supersede or replace any of the covenants contained in this mortgage which are covenants by the borrower, for it and its successors, executors, heirs, administrators and assigns. If there is a conflict between any of the covenants implied by the Land Registration Reform Act, 1984, and any term contained in this mortgage, the term contained in this mortgage prevails.
- e. Notwithstanding the registration of this mortgage and the advance of funds pursuant to this mortgage, the terms and/or conditions of any letter of commitment pertaining to the loan transaction evidenced by this mortgage will remain binding and effective on the parties hereto and will not merge in this mortgage nor in any document executed and/or delivered on closing of this transaction, and the terms thereof are incorporated in this mortgage by reference. In the event of any inconsistency between the terms of any such letter of commitment and this mortgage, this mortgage will prevail.
- f. The Section headings in this mortgage are provided for ease of reference and do not form part of this mortgage.
- g. Any agreement in writing between the borrower and the lender altering the terms of this mortgage in any way, including altering the payment of the unpaid mortgage money, the term or the interest rate (whether increased or decreased) need not be registered in any land registry office, but is effectual and binding on the land and upon the borrower, the lender and upon any subsequent chargee, encumbrancer, transferee of the land, or any part thereof, or other person claiming an interest in the land, as if the agreement had been registered prior to their obtaining any interest in the land. This mortgage will be effective whether or not the whole or any portion of the principal amount is advanced before, after or on the date of execution of this mortgage. This mortgage secures the mortgage money and any portion of the principal amount may be advanced or readvanced by the lender in one or more sums on any future dates and the amount of those advances and readvances when made will be secured by this mortgage and be repayable with interest. If the whole or any part of the principal amount or other amount secured hereby is repaid, until the lender has executed and delivered to the borrower a registrable discharge of this mortgage, this mortgage remains valid security for any subsequent advance or readvance by the lender to the borrower to the same extent as if that advance or readvance had been made on the date of execution of this mortgage. Nothing in this paragraph obliges the lender to make a further advance or readvance.

END OF SET

TAB C

THIS IS EXHIBIT "C" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th DAY
OF NOVEMBER, 2018.



A Commissioner for Taking Affidavits, etc.

Properties

PIN 58120 - 0162 LT
Description PT E 1/2 LT 10 CON 4 ESSA TWP PT 4 RD1027 ; ESSA
Address SIMCOE

Source Instruments

<i>Registration No.</i>	<i>Date</i>	<i>Type of Instrument</i>
SC431876	2006 04 28	Charge/Mortgage

Transferor(s)

This transfer of charge affects all lands that the charge is against which are outstanding.

Name MCAP MORTGAGE CORPORATION
Address for Service PO Box 351 Station C
 Kitchener ON N2G 3Y9

I, KAREN VAN WART, Mortgage Specialist, have the authority to bind the corporation.
 This document is not authorized under Power of Attorney by this party.

Transferee(s)*Capacity**Share*

Name BUDUKNIST CREDIT UNION
Address for Service 1891 Rathburn Road East
 Mississauga ON L4W 3Z3

Statements

The chargee transfers the selected charge for \$299,440.65
 The chargee transfers ALL of the selected charge.
 This document relates to registration no.(s)SC431776

Signed By

Janet Mary Seebach	600-100 Frederick Street, P.O. Box 351 Stn C Kitchener N2G 3Y9	acting for Transferor(s)	Signed	2009 05 07
Tel 8882418500 Fax 8009220220				
Giuseppe J. Pichini	201-7007 Islington Ave. Woodbridge L4L 4T5	acting for Transferee(s)	Signed	2009 05 06
Tel 905-856-7890 Fax 9058567892				

Submitted By

PICHINI & ASSOCIATES	201-7007 Islington Ave. Woodbridge L4L 4T5	2009 05 12
Tel 905-856-7890 Fax 9058567892		

Fees/Taxes/Payment

<i>Statutory Registration Fee</i>	\$60.00
<i>Total Paid</i>	\$60.00

File Number

Transferor Client File Number : JS-8131670.1-DEMARIA-MISC/09
Transferee Client File Number : DEM8469

TAB D

THIS IS EXHIBIT "D" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th DAY
OF NOVEMBER, 2018.



A Commissioner for Taking Affidavits, etc.

PROPERTY DESCRIPTION: PT E 1/2 LT 10 CON 4 ESSA TWP PT 4 RD1027 ; ESSA

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:
1999/07/19

OWNERS' NAMES
DE MARIA, CARLO
DE MARIA, SANDRA

CAPACITY SHARE
JTEN
JTEN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<p>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1999/07/19 ON THIS PIN**</p> <p>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/07/19**</p> <p>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/07/16 **</p> <p>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</p> <p>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * AND ESCHEATS OR FORFEITURE TO THE CROWN.</p> <p>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION.</p> <p>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</p> <p>**DATE OF CONVERSION TO LAND TITLES: 1999/07/19 **</p> <p>NOTE: THE NO DEALINGS INDICATOR IS IN EFFECT ON THIS PROPERTY</p>						
RD1027	1970/04/13	PLAN REFERENCE				
REMARKS: RO325690						
RO1366700	1997/12/09	CHARGE		*** COMPLETELY DELETED ***	NATIONAL TRUST COMPANY	
RO1405101	1999/02/26	TRANSFER		*** COMPLETELY DELETED ***	SUROWIEC, JOHN-PAUL BOBROW, ASHILD	
RO1405102	1999/02/26	CHARGE		*** COMPLETELY DELETED ***	SCOTIA MORTGAGE CORPORATION	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
SC11093	2002/04/10	DISCH OF CHARGE		*** COMPLETELY DELETED *** NATIONAL TRUST COMPANY		
	REMARKS: RE: RC1366700					
SC13792	2002/04/22	CHARGE		*** COMPLETELY DELETED *** BOBROW, ASHILD SUROWIEC, JOHN-PAUL	THE BANK OF NOVA SCOTIA	
SC26605	2002/06/10	DISCH OF CHARGE		*** COMPLETELY DELETED *** SCOTIA MORTGAGE CORPORATION		
	REMARKS: RE: RC1405102					
SC154451	2003/09/25	TRANSFER		*** COMPLETELY DELETED *** BOBROW, ASHILD SUROWIEC, JOHN-PAUL	D'ALESSANDRO, IGNAZIO	
	REMARKS: PLANNING ACT STATEMENT					
SC154452	2003/09/25	CHARGE		*** COMPLETELY DELETED *** D'ALESSANDRO, IGNAZIO	HOME TRUST COMPANY	
SC154453	2003/09/25	CHARGE		*** COMPLETELY DELETED *** D'ALESSANDRO, IGNAZIO	FISHER, SHELLEY	
SC161942	2003/10/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE BANK OF NOVA SCOTIA		
	REMARKS: RE: SC13792					
SC308192	2005/02/23	CHARGE		*** COMPLETELY DELETED *** D'ALESSANDRO, IGNAZIO	FISHER, SHELLEY	
SC431775	2006/04/28	TRANSFER	\$325,000	D'ALESSANDRO, IGNAZIO	DE MARIA, CARLO DE MARIA, SANDRA	C
SC431876	2006/04/28	CHARGE	\$317,241	DE MARIA, CARLO DE MARIA, SANDRA	MCAP MORTGAGE CORPORATION	C
SC432253	2006/05/01	DISCH OF CHARGE		*** COMPLETELY DELETED *** FISHER, SHELLEY		
	REMARKS: RE: SC154453					
SC432258	2006/05/01	DISCH OF CHARGE		*** COMPLETELY DELETED *** FISHER, SHELLEY		
	REMARKS: RE: SC308192					

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

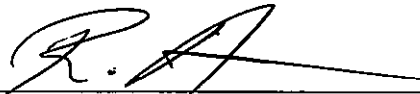
* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
SC472323	2006/08/28	DISCH OF CHARGE REMARKS: RE: SC154452		*** COMPLETELY DELETED *** HOME TRUST COMPANY		
SC734513	2009/05/12	TRANSFER OF CHARGE REMARKS: SC431876		MCAP MORTGAGE CORPORATION	BUDUCHNIST CREDIT UNION	C
SC1219342	2015/06/18	RESTRICTIONS ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	TRADE CAPITAL FINANCE CORP.	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

TAB E

THIS IS EXHIBIT "E" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th DAY
OF NOVEMBER, 2018.



A Commissioner for Taking Affidavits, etc.

COPY

Mr. Carlo Demaria
211 Woodland Acres Cres
Vaughan, Ontario
L6A 1G1

November 12, 2018

FIRST NOTICE

Dear Mr. Carlo Demaria,

RE: retail mortgage account # 35926-2 *RE: 6216 5th LINE, EGBERT*

Just a reminder to let you know that your payment is 5 days past due on your retail mortgage.

Should you have already made this payment please disregard this notice and accept our thanks.

Yours truly,

Loans Department,

TAB F

THIS IS EXHIBIT "F" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th DAY
OF NOVEMBER, 2018.



A Commissioner for Taking Affidavits, etc.



Township of Essa
 5786 Simcoe County Road 21
 Utopia, Essa Twp. ON L0M 1T0
 Tel. (705) 424-9770

Requested By: DENTONS CANADA LLP 400 - 77 KING ST W TORONTO-DOMINION CENTRE TORONTO ON M5K 0A1 Certificate No: 6468 Fee: 40.00 Your File: 228576-11	Assessed Owners DE MARIA CARLO DE MARIA SANDRA 211 WOODLAND ACRES CRE MAPLE ON L6A 1G1	Property Roll Number 4321 010001143010000 Property Description CON 4 S PT LOT 10 RP 51R102
	Municipal Address 6216 5TH LINE	

Statement of Current Year Taxes

Taxes Levied to Date	Local Improvements	Penalty	Amount Paid	Current Owing
\$2,677.22	\$0.00	\$27.56	\$1,404.29	\$1,300.49

Statement of Tax Arrears

Arrears In	Taxes	Interest	Total Outstanding
Year 1	\$0.00	\$0.00	\$0.00
Year 2	\$0.00	\$0.00	\$0.00
Year 3 and prior	\$0.00	\$0.00	\$0.00

Total Taxes Owing and Billed at Date of Certification: \$1,300.49

Penalty and/or interest levied on outstanding principal is 1.25% levied on the first day of the month after default and then on the first of each month thereafter until paid. Interest and penalty charges have been calculated to the end of the month in which this certificate is issued.

Local Improvement Charge Breakdown				Current Year Installment Breakdown			
Code	Description	Amount	Expiry	Interim		Final	
				2018-03-27	\$667.64	2018-09-25	\$671.58
				2018-06-26	\$667.00	2018-11-27	\$671.00
				Total	\$1,334.64	Total	\$1,342.58
Prior Year Taxes				Total Current Year Taxes Levied:			
December 31, 2017		\$2,669.25					\$2,677.22

Comments: Due Dates are March 27, June 26, September 25 and November 27.

I hereby certify that, subject to the qualifications respectively shown the above statement shows:

- All arrears of taxes returned to this office are due and owing against the above lands.
- The current amount of taxes on real property and whether any or all of the taxes have been paid as at the date of certification in connection with the above lands, and that no part of the said land has been sold for taxes under the Municipal Tax Act, 1984.
- That the current taxes shown reflect only those levied to date for the property described.

Qualifications

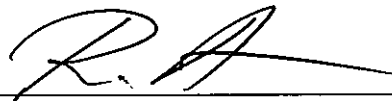
Certified as at: 2018-11-19

Treasurer

- This certificate is subject to additional taxes which may be levied pursuant to Sections 32 and 33 of the Assessment Act, R.S.O. 1990.
- This certificate is subject to the adjustment of taxes pursuant to the provisions of Sections 39.1 and 40 of the Assessment Act R.S.O. 1990 and Sections 356, 357 and 358 of the Municipal Act/O. Reg 325/01.
- The total taxes shown may include additions to the Tax Collector's roll authorized by provincial legislation.
- The information on this certificate is based on cheques tendered being honoured by the institution upon which they are drawn.
- The tax Bill is sent to the assessed owner at time of production.
- A COPY OF THIS CERTIFICATE SHOULD BE GIVEN TO THE NEW OWNERS. THE MUNICIPALITY DOES NOT REBILL.

TAB G

THIS IS EXHIBIT "G" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th
DAY OF NOVEMBER, 2018.



A Commissioner for Taking Affidavits, etc.

November 21, 2018

File No.: 228576-11

DELIVERED VIA COURIER**DELIVERED VIA EMAIL** (cdemaria3@icloud.com, carlo@vicarhomes.com, carlo@douknow.com, cvdemaria@gmail.com, sandra@vapz.com, awinton@counsel-toronto.com and punderwood@counsel-toronto.com)Carlo Demaria
211 Woodland Acres Crescent
Vaughan, ON L6A 1G1Sandra Demaria
211 Woodland Acres Crescent
Vaughan, ON L6A 1G1

WITH A COPY BY EMAIL TO:

Lax O'Sullivan Lissus Gottlieb LLP
145 King Street West, Suite 2750
Toronto, ON M5H 1J8
Attention: Andrew Winton and Philip Underwood

Dear: Sirs/Madams

RE: Indebtedness of Carlo Demaria and Sandra Demaria (together, the "Borrowers") pursuant to the Charge / Mortgage in the principal amount of \$317,240.63 (the "Charge") originally granted to MCAP Mortgage Corporation as assigned to Buduchnist Credit Union Limited (the "Lender"), and registered against the real property municipally known as 6216 5th Line, Egbert, Ontario (the "Property")

We are counsel to the Lender in respect of the above-noted matter.

Reference is made to the following agreements:

1. Mortgage Loan Agreement, dated March 11, 2009 among the Lender and the Borrowers; and
2. the Charge registered against the Property on April 28, 2006 as Instrument No. SC431876 and assigned to the Lender pursuant to the Transfer of Charge registered against the Property on May 12, 2009 as Instrument No. SC734513.

The Borrowers are in default of the Charge for failing to make monthly payments of principal and interest when due, as of November 7, 2018, and failing to pay realty taxes on the Property. Such default entitles the Lender, pursuant to section 10 of the Standard Charge Terms 9819, which are incorporated by reference into the Charge, to accelerate the Charge together with interest thereon such that all amounts owing thereunder are immediately due and payable. Furthermore, the Charge matured on March 30, 2017. Accordingly, all amounts owing under the Charge are immediately due and payable. The Charge also entitles the Lender to take steps to enforce the security granted to it thereunder.

As of November 21, 2018, the Borrowers are indebted to the Lender, under the foregoing agreements, as follows (the "Indebtedness"):

Principal	\$179,083.37
Interest	\$647.27
Total	<u>\$179,730.64</u>


On behalf of the Lender, we hereby demand repayment of the Indebtedness plus all costs and expenses incurred by the Lender and all interest accruing after the date hereof to the date of payment of all amounts hereunder. Interest continues to accrue on the Charge at the daily rate of \$16.01. Payment may be made by way of certified cheque or bank draft payable to Buduchnist Credit Union Limited and delivered to 2280 Bloor Street West, Toronto, Ontario, M6S 1N9, Attention Roman Sharanewych.

If full payment, as set forth herein, is not received by the close of business on December 1, 2018, the Lender will take whatever steps it deems appropriate to seek repayment of the said amount. We enclose for service upon each of you a Notice of Intention to Enforce Security in accordance with Section 244 of the *Bankruptcy and Insolvency Act (Canada)* (the "BIA"). If you are prepared to waive the ten day notice period prescribed by the BIA, please endorse the enclosed Consents to Enforcement and return to the undersigned as soon as possible.

Please note that the Lender reserves the right to proceed against you prior to the time stipulated herein in the event that the Lender determines that its position is further jeopardized.

If you have any questions or concerns, please contact the undersigned.

Yours truly,
Dentons Canada LLP



Kenneth Kraft

E. & O.E.

cc: Buduchnist Credit Union Limited

Enclosure

NOTICE OF INTENTION TO ENFORCE SECURITY
(Subsection 244(1) Bankruptcy and Insolvency Act)

TO: Carlo Demaria
 211 Woodland Acres Crescent
 Vaughan, ON L6A 1G1

TAKE NOTICE THAT:

1. Buduchnist Credit Union Limited, a secured creditor, intends to enforce its security on the property of the insolvent person described below:
 - (a) the real property municipally known as 6216 5th Line, Egbert, Ontario and legally described as follows:

PIN No. 58120-0162 (LT)
 PT E 1/2 LT 10 CON 4 ESSA TWP PT 4 RD1027; ESSA
 Province of Ontario
 Land Registry Office (No. 51)
2. The security that is to be enforced is in the form of:
 - (a) a Charge/Mortgage of Land registered in the Land Registry Office for the Land Titles Division of LRO (No. 51) on April 28, 2006 as Instrument No. SC431876 and assigned to the secured creditor pursuant to the Transfer of Charge registered against the Real Property on May 21, 2009 as Instrument No. SC734513.
3. The total amount of the indebtedness secured by the security is \$174,730.64 as at the 21st day of November 2018, plus interest accruing thereafter and costs incurred by or charged to the secured creditor.
4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at the City of Toronto, this 21st
 day of November 2018.

BUDUCHNIST CREDIT UNION LIMITED
 by its solicitors
 DENTONS CANADA, LLP

Per: 
 Kenneth Kraft
 77 King Street West, Suite 400
 Toronto, ON M5K 0A1

CONSENT TO ENFORCEMENT

TO: Buduchnist Credit Union Limited (the "Lender")

FROM: Carlo Demaria

Carlo Demaria hereby acknowledges receipt of a Notice of Intention to Enforce Security pursuant to the *Bankruptcy and Insolvency Act (Canada)* delivered by the Lender.

For consideration received, the receipt and sufficiency of which are hereby irrevocably acknowledged, Carlo Demaria hereby consents to the immediate enforcement by the Lender of the security held by the Lender from Carlo Demaria, and for the same consideration waives completely all rights to any delay by or any further notice from the Lender with respect to the enforcement of its security and the exercise of the other remedies of the Lender against Carlo Demaria.

DATED at _____ this _____ day of _____, 2018

CARLO DEMARIA

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November 21, 2018

File No.: 228576-11

DELIVERED VIA COURIER**DELIVERED VIA EMAIL** (cdemaria3@icloud.com, carlo@vicarhomes.com, carlo@douknow.com, cvdemaria@gmail.com, sandra@vapz.com, awinton@counsel-toronto.com and punderwood@counsel-toronto.com)Carlo Demaria
211 Woodland Acres Crescent
Vaughan, ON L6A 1G1Sandra Demaria
211 Woodland Acres Crescent
Vaughan, ON L6A 1G1

WITH A COPY BY EMAIL TO:

Lax O'Sullivan Lissus Gottlieb LLP
145 King Street West, Suite 2750
Toronto, ON M5H 1J8
Attention: Andrew Winton and Philip Underwood

Dear: Sirs/Madams

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We are counsel to the Lender in respect of the above-noted matter.

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Please note that the Lender reserves the right to proceed against you prior to the time stipulated herein in the event that the Lender determines that its position is further jeopardized.

If you have any questions or concerns, please contact the undersigned.

Yours truly,
Dentons Canada LLP



Kenneth Kraft

E. & O.E.

cc: Buduchnist Credit Union Limited

Enclosure

NOTICE OF INTENTION TO ENFORCE SECURITY
(Subsection 244(1) *Bankruptcy and Insolvency Act*)

TO: Sandra Demaria
211 Woodland Acres Crescent
Vaughan, ON L6A 1G1

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PT E 1/2 LT 10 CON 4 ESSA TWP PT 4 RD1027; ESSA
Province of Ontario
Land Registry Office (No. 51)
2. The security that is to be enforced is in the form of:
 - (a) a Charge/Mortgage of Land registered in the Land Registry Office for the Land Titles Division of LRO (No. 51) on April 28, 2006 as Instrument No. SC431876 and assigned to the secured creditor pursuant to the Transfer of Charge registered against the Real Property on May 21, 2009 as Instrument No. SC734513.
3. The total amount of the indebtedness secured by the security is \$174,730.64 as at the 21st day of November 2018, plus interest accruing thereafter and costs incurred by or charged to the secured creditor.
4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at the City of Toronto, this 21st
day of November 2018.

BUDUCHNIST CREDIT UNION LIMITED
by its solicitors
DENTONS CANADA, LLP

Per: 
Kenneth Kraft
77 King Street West, Suite 400
Toronto, ON M5K 0A1

CONSENT TO ENFORCEMENT

TO: Buduchnist Credit Union Limited (the "Lender")

FROM: Sandra Demaria

Sandra Demaria hereby acknowledges receipt of a Notice of Intention to Enforce Security pursuant to the *Bankruptcy and Insolvency Act* (Canada) delivered by the Lender.

For consideration received, the receipt and sufficiency of which are hereby irrevocably acknowledged, Sandra Demaria hereby consents to the immediate enforcement by the Lender of the security held by the Lender from Sandra Demaria, and for the same consideration waives completely all rights to any delay by or any further notice from the Lender with respect to the enforcement of its security and the exercise of the other remedies of the Lender against Sandra Demaria.

DATED at _____ this _____ day of _____, 2018

SANDRA DEMARIA

TAB H

THIS IS EXHIBIT "H" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th
DAY OF NOVEMBER, 2018.



A Commissioner for Taking Affidavits, etc.

Court File No. CV-18-00608356-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

**2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED and VICAR HOMES LTD.**

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

AMENDED NOTICE OF APPLICATION

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following pages.

THIS APPLICATION will come on for a hearing on **November 13, 2018 at 10:00 a.m.** at 330 University Avenue, Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL

AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

November 6, 2018

Issued By: _____
Local Registrar
330 University Avenue
Toronto, ON M5G 1R7

TO: THE SERVICE LIST

APPLICATION

1. The Applicant, Buduchnist Credit Union Limited (“BCU”), makes an application, for an order, *inter alia*:
 - (a) Appointing ~~Zeifman Partners Inc. (“Zeifmans”)~~ KSV Kofman Inc. (“KSV”) as receiver and manager (in such capacity, the “Receiver”) of the Real Properties (being ~~four~~ five residential properties defined below), including all rents arising therefrom and proceeds thereof, pursuant to Subsection 243(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) and Section 101 of the *Courts of Justice Act* Ontario (“CJA”);
 - (b) granting the Receiver, and counsel to the Receiver, a charge on the Real Properties (the “Receiver’s Charge”) as security for their fees and disbursements, and declaring that the Receiver’s Charge shall form a first charge on the Real Properties in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA;
 - (c) granting a charge on the Real Properties as security for the payment of monies borrowed by the Receiver, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any person, but subordinate in priority to the Receiver’s Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA;
 - (d) authorizing the Receiver, if it determines desirable, to sell the Elm Property (defined below) pursuant to the Agreement of Purchase and Sale, accepted May 19, 2017 (the “APS”), between Vicar Homes Ltd. (“Vicar Homes”) and Sylvia Conforti, as amended, subject to monetary adjustments and such amendments as the Receiver may deem appropriate, or to negotiate and enter into a new agreement for the sale of the Elm Property, on terms acceptable to the Receiver and the Applicant, and sell and convey the Elm Property pursuant to such sale agreement;

- (e) declaring that the Receiver is not a “vendor” as defined in, and for the purposes of, the *Ontario New Home Warranties Plan Act* (the “ONHWPA”);
- (f) granting judgment to the Applicant in the amounts indicated below, as of November 1, 2018, plus interest and costs, against:

Elm Property:

- (i) 2321197 Ontario Inc. (“**197 Ontario**”) and Carlo Demaria, in respect of the 197 Loan (defined below), the amount of \$2,263,227.94;

Puccini Property (defined below):

- (ii) 2321198 Ontario (“**198 Ontario**”) and Carlo Demaria, in respect of the 198 Loan (defined below), in the amount of \$2,582,078.43;

Woodland Property (defined below):

- (iii) Carlo and Sandra Demaria, in respect of the First Woodland Mortgage (defined below), in the amount of \$995,199.35;
- (iv) Vicar Homes, in respect of the Vicar Homes Loan (defined below), in the amount of \$2,198,910.42 and against Carlo Demaria, as guarantor of the Vicar Homes Loan, in the amount of \$1,000,000;
- (v) Carlo and Sandra Demaria, in respect of the Second Woodland Mortgage (defined below), in the amount of \$2,198,910.42; and

Wilson Heights Property (defined below):

- (vi) Sasi Mach Limited (“**Sasi Mach**”) and Sandra Demaria, in respect of the Sasi Mach Loan (defined below), in the amount of \$485,485.85; and

Cottage Property (defined below)

- (vii) Carlo and Sandra Demaria, in respect of the Cottage Mortgage (defined below), in the amount of \$179,083.37.

(g) such further and other relief as counsel may advise and this Honourable Court may permit.

2. In the alternative, BCU makes an application for an order, *inter alia*:

- (a) appointing Zeifmans KSV as interim receiver (in such capacity, the “**Interim Receiver**”) of the real properties municipally known as, (i) 87 Elm Grove Avenue, Richmond Hill, Ontario (the “**Elm Property**”), (ii) 46 Puccini Drive, Richmond Hill, Ontario (the “**Puccini Property**”); and (iii) 506 Wilson Heights Blvd, North York, Ontario (the “**Wilson Heights Property**”); and (iv) 6216 Fifth Line RR #1 Egbert Ontario (the “Cottage Property, and collectively with the Elm Property, the Wilson Heights Property and the Puccini Property, the “**IR Properties**”), including all rents arising therefrom and proceeds thereof, pursuant to Subsection 47(1) of the BIA;
- (b) granting the Interim Receiver, and counsel to the Interim Receiver, a charge on the IR Properties (the “**Interim Receiver’s Charge**”) as security for their fees and disbursements, and declaring that the Interim Receiver’s Charge shall form a first charge on the IR Properties in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA;
- (c) granting a charge on the IR Properties as security for the payment of monies borrowed by the Interim Receiver, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any person, but subordinate in priority to the Interim Receiver’s Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA;
- (d) authorizing the Interim Receiver, if it determines desirable, to sell the Elm Property pursuant to the APS, subject to adjustments and such minor amendments as the Receiver may deem appropriate, or to negotiate and enter into a new agreement for the sale of the Elm Property, on terms acceptable to the Interim Receiver and the Applicant, and sell and convey the Elm Property pursuant to such sale agreement;

- (e) declaring that the Interim Receiver is not a “vendor” as defined in, and for the purposes of, the ONHWPA; and
- (f) such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE APPLICATION ARE:

Background

3. 197 Ontario and 198 Ontario are each corporations incorporated pursuant to the laws of the Province of Ontario. Their registered office address is located at 211 Woodland Acres Crescent, Vaughan, Ontario (the “**Woodland Property**”, and together with the IR Properties, the “**Real Properties**”);
4. The sole director and officer of each of 197 Ontario and 198 Ontario is Carlo Demaria;
5. 197 Ontario is the registered owner of the Elm Property and 198 Ontario is the registered owner of the Puccini Property;
6. Carlo Demaria and Sandra Demaria are individuals and the registered owners of the Woodland Property and the Cottage Property;
7. Sasi Mach is a corporation incorporated pursuant to the laws of the Province of Ontario. Its registered office address is located at the Woodland Property;
8. Sandra Demaria is the sole director and officer of Sasi Mach;
9. Sasi Mach is the registered owner of the Wilson Heights Property;
10. Vicar Homes is a corporation incorporated pursuant to the laws of the Province of Ontario. Carlo Demaria is a director and officer of Vicar Homes;
11. BCU is the largest Ukrainian credit union in Canada and advanced loans to each of the Respondents, which loans are secured by mortgages on the Real Properties that are in default;

12. The mortgages in favour of BCU are the only mortgages registered against the Real Properties, and the only other creditors BCU is aware of with potential encumbrances against the Real Properties are the municipalities for tax and utility arrears;

Elm Property

(A) Indebtedness and Security

13. The Elm Property is comprised of land and a new vacant residential home the construction of which is not complete. It is subject to an agreement of purchase and sale which failed to close on October 1, 2018, as result of the vendor's default;
14. Pursuant to the Commitment Letter, dated January 29, 2016, and the Line of Credit Loan Agreement, dated January 29, 2016 (together, the "197 Loan Agreements"), BCU advanced a demand loan to 197 Ontario in the principal amount of \$2,200,000 (the "197 Loan");
15. Repayment of the 197 Loan is guaranteed by Carlo Demaria pursuant to a Guarantee and Postponement of Claim, dated January 29, 2016;
16. The 197 Loan is secured by a charge/mortgage in the principal amount of \$2,200,000, registered in favour of BCU against the Elm Property on February 5, 2016;
17. There are no other mortgages registered against title to the Elm Property;
18. As of November 1, 2018, 197 Ontario is indebted to BCU in the amount of \$2,263,227.94 plus interest and costs to the date of payment;

(B) Default and Demand

19. 197 Ontario is in default of the 197 Loan Agreements for failing to, (a) make monthly payments of principal and interest when due, and (b) pay realty taxes on the Elm Property when due;

20. The last payment made in respect of the 197 Loan was received on October 30, 2017, and there is currently \$3,731.20 of realty tax arrears owing on the Elm Property. Accordingly, the default is continuing;
21. By letters, dated September 21, 2018, delivered to 197 Ontario and Carlo Demaria, as guarantor, BCU demanded repayment of the 197 Loan, plus all accrued and outstanding interest and costs, by October 3, 2018. The demand letter to 197 Ontario was accompanied by a Notice of Intention to Enforce Security pursuant to Subsection 244(1) of BIA ("**BIA Notice**"), dated September 21, 2018;
22. The 10-day notice period prescribed by the BIA has expired without payment to BCU;

Puccini Property

(A) Indebtedness and Security

23. The Puccini Property is a residential property which BCU believes to be occupied by tenant(s);
24. Pursuant to the Line of Credit Mortgage Loan Agreement and Statement of Disclosure, dated February 17, 2015, the Mortgage Loan Offer, dated February 17, 2015, and the Line of Credit Mortgage Loan Agreement and Statement of Disclosure, dated October 20, 2015, BCU made loan advances to 198 Ontario (the "**198 Loan**");
25. The 198 Loan is secured by a charge/mortgage in the principal amount of \$2,500,000 (the "**Puccini Mortgage**"), registered in favour of BCU against the Puccini Property on February 27, 2015;
26. Repayment of the Puccini Mortgage is guaranteed by Carlo Demaria pursuant to the Guarantor Clause, dated February 26, 2015;
27. There are no other mortgages registered against title to the Puccini Property;
28. However, on September 29, 2015, an Order issued by the Ontario Superior Court, dated May 6, 2015 (the "**Mareva Order**"), in the proceeding of *Trade Capital Finance Corp. v.*

Peter Cook et al., bearing Brampton Court File No. CV-15-2110-00, was registered against the Puccini Property;

29. The obligations of 198 Ontario to BCU are also secured by a General Security Agreement, dated February 17, 2015;
30. On September 20, 2018, BCU registered a financing statement pursuant to the *Personal Property Security Act* (Ontario) (“PPSA”) against 198 Ontario over all collateral classes except “consumer goods”;
31. As of November 1, 2018, 198 Ontario is indebted to BCU in the amount of \$2,582,078.43 plus interest and costs to the date of payment;
32. BCU believes that the Puccini Property is tenanted, however it received no response to its letter, dated September 24, 2018, delivered to each of 198 Ontario and the tenant requesting information in respect of the tenancy;

(B) Default and Demand

33. 198 Ontario is in default of the Puccini Mortgage for failing to, (a) make monthly payments of principal and interest when due, and (b) pay realty taxes on the Puccini Property when due;
34. The last payment made in respect of the 198 Loan was received on October 30, 2017, and there is currently \$12,146.12 of realty tax arrears owing on the Puccini Property. Accordingly, the default is continuing;
35. By letters, dated September 24, 2018, delivered to 198 Ontario and Carlo Demaria, as guarantor, BCU demanded repayment of the 198 Loan, plus all accrued and outstanding interest and costs, by October 5, 2018. The demand letter to 198 Ontario was accompanied by a BIA Notice, dated September 24, 2018;
36. The 10-day notice period prescribed by the BIA has expired without payment to BCU;

Woodland Property

(A) Indebtedness and Security

37. The Woodland Property is a residential property that is the family home of Carlo Demaria and Sandra Demaria;
38. Pursuant to the Mortgage Loan Offer, dated August 4, 2010, Carlo and Sandra Demaria granted to BCU a mortgage/charge in the principal amount of \$1,490,000, which was registered against the Woodland Property on August 16, 2010 (the “**First Woodland Mortgage**”);
39. As of November 1, 2018, a total of \$995,199.35 is owing under the First Woodland Mortgage, plus interest and costs to the date of payment;
40. Pursuant to the Line of Credit Mortgage Loan Agreement and Statement of Disclosure, dated November 12, 2012 (the “**Demaria Loan Agreement**”), BCU made available certain credit facilities to Carlo and Sandra Demaria in the principal amount of \$3,000,000;
41. The obligations of Carlo and Sandra Demaria pursuant to the Demaria Loan Agreement were secured by a second collateral mortgage/charge in the principal amount of \$3,000,000 and registered against the Woodland Property on December 5, 2012 (the “**Second Woodland Mortgage**”);
42. Pursuant to the Line of Credit Loan Agreement, dated April 1, 2015 (“**Vicar Homes Loan Agreement**”), BCU advanced to Vicar Homes certain loan facilities (the “**Vicar Homes Loan**”);
43. Carlo Demaria guaranteed the repayment of the Vicar Homes Loan pursuant to the Guarantee and Postponement of Claim, dated April 1, 2015, which is limited to \$1,000,000;
44. It was the express intention of BCU and Carlo Demaria that the Second Woodland Mortgage would secure advances under the Vicar Homes Loan;

45. As of November 1, 2018, a total of \$2,198,910.42 is owing under the Vicar Homes Loan Agreement and the Second Woodland Mortgage, plus interest and costs to the date of payment;

46. There are no other mortgages registered against title to the Woodland Property, however, the Mareva Order was registered against the Woodland Property on June 18, 2015;

(B) Default and Demand

47. Carlo and Sandra Demaria are in default of the First Woodland Mortgage for failing to, (a) make monthly payments of principal and interest when due, and (b) pay realty taxes on the Woodland Property when due;

48. The last mortgage payment made in respect of the First Woodland Mortgage was received on August 9, 2018, and there is currently \$6,659.31 of realty tax arrears owing on the Woodland Property. Accordingly, the default is continuing;

49. On October 3, 2018, Carlo Demaria responded to a payment delinquency letter sent by BCU to Carlo and Sandra Demaria in respect of the First Woodland Mortgage by an email stating: "Can't pay mortgage or any bills at present time. Flat broke". Sandra Demaria did not respond;

50. By letter, dated October 18, 2018, delivered to Carlo and Sandra Demaria, BCU demanded repayment of the First Woodland Mortgage, plus all accrued and outstanding interest and costs, by October 31, 2018. The demand letter was accompanied by BIA Notices, dated October 18, 2018;

51. The 10-day notice period prescribed by the BIA has expired without payment to BCU;

52. Vicar Homes is in default of the Vicar Homes Loan Agreement for failing to make monthly payments of principal and interest when due;

53. The last payment made in respect of the Vicar Homes Loan was received on November 2, 2017;

54. By letters, dated October 18, 2018, delivered to Vicar Homes, Carlo and Sandra Demaria, BCU demanded repayment of the Vicar Homes Loan secured by the Woodland Second Mortgage, plus all accrued and outstanding interest and costs, by October 31, 2018. The demand letters were accompanied by BIA Notices, dated October 18, 2018;
55. The 10-day notice period prescribed by the BIA has expired without payment to BCU;

Wilson Heights Property

(A) Indebtedness and Security

56. The Wilson Heights Property is a residential property which BCU believes to be occupied by tenant(s);
57. Pursuant to the Commitment Letter and the Mortgage Loan Agreement, each dated October 9, 2015 (together, the “**Sasi Mach Loan Agreements**”), BCU advanced a loan to Sasi Mach in the principal amount of \$525,000 (the “**Sasi Mach Loan**”);
58. Repayment of the Sasi Mach Loan is guaranteed by Sandra Demaria pursuant to the Guarantee and Postponement of Claim, dated October 9, 2015;
59. The Sasi Mach Loan is secured by a charge/mortgage in the principal amount of \$525,000 (the “**Wilson Heights Mortgage**”), registered in favour of BCU against the Wilson Heights Property on October 14, 2015;
60. There are no other mortgages registered against title to the Wilson Heights Property;
61. As security for its obligations to BCU, Sasi Mach also executed and delivered to BCU:
 - (a) a General Assignment of Rents, dated October 9, 2015, which was registered against title to the Wilson Heights Property on October 15, 2015; and
 - (b) a General Security Agreement, dated October 9, 2015;
62. On October 14, 2015, BCU registered two financing statements pursuant to the PPSA against Sasi Mach, one of which is over all collateral classifications except “consumer goods”;

63. As of November 1, 2018, Sasi Mach is indebted to BCU in the amount of \$485,485.85, plus interest and costs to the date of payment;
64. BCU believes that the Wilson Heights Property is tenanted, however, it received no response to its letter, dated October 17, 2018, delivered to each of 198 Ontario and the tenants requesting information in respect of the tenancies;

(B) Default and Demand

65. Sasi Mach is in default of the Sasi Mach Loan Agreements for failing to, (a) make monthly payments of principal and interest when due, and (b) pay realty taxes on the Wilson Heights Property when due;
66. The last payment made in respect of the Sasi Mach Loan was received on August 20, 2018, and there is currently \$9,190.21 of realty tax arrears owing on the Wilson Heights Property. Accordingly, the default is continuing;
67. By letters, dated October 25, 2018, delivered to Sasi Mach and Sandra Demaria, as guarantor, BCU demanded repayment of the Sasi Mach Loan, plus all accrued and outstanding interest and costs, by November 5, 2018. The demand letter to Sasi Mach was accompanied by a BIA Notice, dated October 25, 2018, and by letter, dated October 26, 2018, BCU delivered to Sasi Mach a revised BIA Notice;
68. The 10-day notice period prescribed by the BIA has expired without payment to BCU;

Cottage Property

(A) Indebtedness and Security

69. The Cottage Property is a residential cottage property;
70. Carlo and Sandra Demaria granted a charge/mortgage (the "Cottage Mortgage") to MCAP Mortgage Corporation ("MCAP") in the principal amount of \$317,240.63, which was registered against the Cottage Property as Instrument No. SC431876 on April 28, 2006;

71. Pursuant to the Transfer of Charge, registered as Instrument No. SC734513 on May 12, 2009 against the Cottage Property, the Cottage Mortgage was assigned by MCAP to BCU;
72. There are no other mortgages registered against title to the Cottage Property, however the Mareva Order was registered against the Cottage Property on June 18, 2015;
73. As of November 1, 2018, Carlo and Sandra Demaria are indebted to BCU, in respect of the Cottage Mortgage, in the amount of \$179,083.37, plus interest and costs to the date of payment;

(B) Default and Demand

74. Carlo and Sandra Demaria are in default of the Cottage Mortgage for failing to, (a) make monthly payments of principal and interest when due, as of November 7, 2018 and (b) pay realty taxes on the Cottage Property when due;
75. The default is continuing;
76. By letters, dated November 21, 2018, BCU demanded repayment of the Cottage Mortgage, plus all accrued and outstanding interest and costs, by December 1, 2018. The demand letters were accompanied by BIA Notices;
77. The 10-day notice period prescribed by the BIA has expired without payment to BCU;

Appointment of the Receiver

78. The Respondents are in default of the terms of their respective loan agreements and mortgages with BCU;
79. All loan and mortgage repayments have ceased. In addition, the Respondents have been uncooperative with BCU in its attempts to gather information in respect of condition of the Elm Property and cost to complete construction of the residence and the tenancy arrangements for the Puccini Property and the Wilson Heights Property;

80. Pursuant to the Mareva Order, upon the motion by Trade Capital Finance Corp. (“**Trade Capital**”), the Ontario Superior Court of Justice issued a Mareva injunction in respect of all assets of various defendants, including Carlo Demaria;
81. Carlo Demaria has communicated to BCU that he is “flat broke” and can’t pay any bills at the present time;
82. BCU has concerns as to the incomplete state of the Elm Property and has not been afforded the opportunity to inspect the Elm Property to determine its condition and the cost to complete construction of the residence. BCU also has concerns that the rental income on the Puccini Property and Wilson Heights Property are not being used to service the mortgage debt and accumulating tax arrears on those properties;
83. A Receiver is necessary to take possession of the Real Properties and conduct a court-supervised sale process;
84. Pursuant to an Agreement of Purchase and Sale, dated May 19, 2017, Vicar Homes agreed to sell the Elm Property to an individual for a purchase price of \$2,825,000;
85. The sale of the Elm Property was originally scheduled to close on June 1, 2018, and was later extended by way of amending agreement to October 1, 2018. However, the vendor failed to close. The purchaser has advised BCU it still wishes to complete the purchase and is willing to finish the house construction itself, subject to a reasonable monetary adjustment to the purchase price;
86. The construction of the residence on the Elm Property has ceased, and each of BCU and the purchaser have requested pursuant to their respective rights, but have not received access to view the status of construction and determine the cost to complete the residence;
87. In light of the upcoming winter months, it is imperative that a Receiver be appointed to take immediate possession of, and secure the Elm Property to ensure that no damage occurs as a result of the colder weather;
88. BCU requests that the Receiver be authorized to sell the Elm Property on terms acceptable to the Receiver and BCU;

89. The Puccini Property and the Wilson Heights Property are believed to be tenanted, however requests for particulars in respect of the lease terms have not been responded to and the current condition of these properties is unknown;
90. In light of the various potential competing interests, including any interests of Trade Capital, the Mareva plaintiff, a Receiver is for the benefit of all stakeholders as all distributions will be made in accordance with the parties' respective priorities;
91. If this Honourable Court does not see fit to appoint a Receiver at the original return date of the within Application, the Applicant requests that an Interim Receiver be appointed in respect of the IR Properties on an urgent basis for the purposes of, among other things, (a) securing the IR Properties and ensuring their condition does not deteriorate pending the appointment of a Receiver, (b) collecting the rental revenues from the Puccini Property and Wilson Heights Property, and (c) if determined desirable, complete the sale of the Elm Property;
92. In the circumstances, the appointment of the Interim Receiver is for benefit of the stakeholders and the preservation of the assets;
93. If the appointment of a receiver over the Cottage Property is unopposed, BCU requests that the receiver be appointed at the December 4, 2018 return date. If, however, such relief is opposed, BCU requests that the appointment of a receiver over the Cottage Property be heard on a date to be scheduled by the Court;
94. BCU may also, at a later date, seek the appointment of a Receiver over other mortgaged properties owned by the Demaria family or corporate entities of which they are officers and directors;
95. ~~Zeifmans~~ KSV is a licensed trustee in bankruptcy and has consented to act as court-appointed receiver with respect to the Property;
96. The provisions of the BIA, including subsections 47(1) and 243(1) thereof;
97. The provisions of the CJA, including section 101 thereof;

98. Rules 2.03, 3.02, 14.05, 16, 37, 38, 39 and 41 of the *Rules of Civil Procedure* (Ontario); and
99. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:

1. The Affidavit of Oksana Prociuk, sworn November 6, 2018, and the exhibits referred to therein;
2. The Responding Affidavit of Oksana Prociuk, sworn November 12, 2018;
3. The Supplementary Affidavit of Oksana Prociuk, sworn November 30, 2018; and
4. ~~The Consent of Zeifmans to act as Receiver and as Interim Receiver, dated November 6, 2018; and~~
5. Such further and other material as counsel may advise and this Honourable Court may permit.

November 6, 2018

DENTONS CANADA LLP
77 King Street West, Suite 400
Toronto-Dominion Centre
Toronto, ON M5K 0A1

Barbara Grossman (LSO # 20947K)
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Lawyers for Buduchnist Credit Union Limited

Court File No:

BUDUCHNIST CREDIT UNION LIMITED
Applicant

- and -

2321197 ONTARIO INC. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

AMENDED NOTICE OF APPLICATION

DENTONS CANADA LLP
77 King Street West, Suite 400
Toronto-Dominion Centre
Toronto, ON M5K 0A1

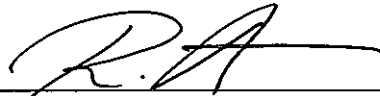
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Kenneth Kraft (LSO # 31919P)
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Lawyers for Buduchnist Credit Union Limited

TAB I

THIS IS EXHIBIT "I" REFERRED TO IN THE
SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK SWORN BEFORE ME THIS 30th
DAY OF NOVEMBER, 2018.



A Commissioner for Taking Affidavits, etc.

REAL PROPERTY APPRAISERS INC.
PHOTOGRAPH PAGE



FRONT VIEW - SUBJECT PROPERTY



REAR VIEW - SUBJECT PROPERTY





BUDUCHNIST CREDIT UNION LIMITED
Applicant

- and -

2321197 ONTARIO INC. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**SUPPLEMENTARY AFFIDAVIT OF OKSANA
PROCIUK
(sworn November 30, 2018)**

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kenneth.kraft@dentons.com

Lawyers for Buduchnist Credit Union Limited

TAB 3

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Budachrist Credit Union Limited
Plaintiff(s)

AND

232197 Ontario Inc. et al
Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No.:	Facsimile No.:

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)

- Adjourned to: _____
- Time Table approved (as follows):

*Interim receivership order respecting
46 Paccani Drive to go in the form attached.*

*Receivership order respecting 87 Elm Grove
Avenue to go in the form attached.*

*Both these orders go unopposed by the
respondents.*

*The remainder is to be adjourned on Dec 7/18
(1 1/2 hrs.). Trade Capital Finance Corporation
may be bringing a receivership motion that
also extends to all of these properties. The
apprehension judge will need to address the order of
consideration of these two motions of the Trade
Finance motion has been brought by that date.*

Dec Nov 13/18
Date

W. Van der ...
Judge's Signature

Additional Pages _____

Court File No. CV-18-00608356-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.)
JUSTICE H. J. WILSON - *S1028*)

TUESDAY, THE 13th
DAY OF NOVEMBER, 2018 *HW*

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED and VICAR HOMES LTD.

Respondents

ORDER
(appointing Interim Receiver)

KJV Kofman Inc
THIS APPLICATION made by the Applicant for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") appointing ~~Zeifman Partners Inc.~~ ^{KJV} ("Zeifmans") as interim receiver (in such capacities, the "Interim Receiver") without security, of the Real Property (defined below), was heard this day at 330 University Avenue, Toronto, Ontario. *HW*

ON READING the Affidavit of Oksana Prociuk, sworn November 6, 2018, and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, Carlo Demaria, *and HW* Trade Capital Finance Corporation ~~and any other party appearing~~, and on reading the consent of ~~Zeifmans to act as the Interim Receiver,~~ *HW*

being advised by counsel that KJV consent to act

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to Section 47(1) of the BIA, ^{KSV} Zeifmans is hereby appointed Interim Receiver, without security, of the real property described in Schedule "A" hereto (the "Real Property"), including all rents arising therefrom and proceeds thereof (collectively, the "Property"). *Handwritten initials*

INTERIM RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts, rents and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise

of the Interim Receiver's powers and duties, including without limitation those conferred by this Order;

- (d) to receive and collect all monies, rent and accounts now owed or hereafter owing to the Respondents in respect of or relating to the Real Property, and to exercise all remedies of the Respondents in collecting such monies, including, without limitation, to enforce any security held by the Respondents;
- (e) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on all matters relating to the Property and the interim receivership, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;
- (f) to register a copy of this Order and any other Orders in respect of the Property against title to the Real Property; and
- (g) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Respondents, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE INTERIM RECEIVER

4. **THIS COURT ORDERS** that (i) the Respondents, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall grant immediate and continued access to the Property to the Interim Receiver, and shall deliver all access codes and keys to the Real Property to the Interim Receiver upon the Interim Receiver's request.

NO PROCEEDINGS AGAINST THE INTERIM RECEIVER

5. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE PROPERTY

6. **THIS COURT ORDERS** that no Proceeding against or in respect of the Property shall be commenced or continued except with the written consent of the Interim Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. **THIS COURT ORDERS** that all rights and remedies against the Interim Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Interim Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Interim Receiver or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on, (ii) exempt the Interim Receiver or the Respondents from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

This provision is not without prejudice to Trade Capital Finance Corporation commencing and continuing an application for the appointment of a receiver in respect of among other things, the Real Property.

INTERIM RECEIVER TO HOLD FUNDS

8. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Interim Receiver from and after the making of this Order from any source whatsoever, including without limitation the collection of any rents or accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Interim Receiver (the "Post Interim Receivership Accounts") and the monies standing to the credit of such Post Interim Receivership Accounts from time to time, net of any

disbursements provided for herein, shall be held by the Interim Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

LIMITATION ON ENVIRONMENTAL LIABILITIES

9. **THIS COURT ORDERS** that nothing herein contained shall require the Interim Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Interim Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Interim Receiver shall not, as a result of this Order or anything done in pursuance of the Interim Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE INTERIM RECEIVER'S LIABILITY

10. **THIS COURT ORDERS** that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the BIA or by any other applicable legislation.

INTERIM RECEIVER'S ACCOUNTS

11. **THIS COURT ORDERS** that the Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Interim

Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge (the "**Interim Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Interim Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

12. **THIS COURT ORDERS** that the Interim Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Interim Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

13. **THIS COURT ORDERS** that prior to the passing of its accounts, the Interim Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Interim Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

14. **THIS COURT ORDERS** that the Interim Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$50,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Interim Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Interim Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the

Interim Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

15. **THIS COURT ORDERS** that neither the Interim Receiver's Borrowings Charge nor any other security granted by the Interim Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

16. **THIS COURT ORDERS** that the Interim Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "Interim Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

17. **THIS COURT ORDERS** that the monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court and any and all Interim Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Interim Receiver's Certificates.

SERVICE AND NOTICE

18. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol, ~~with the following URL: <<https://www.zeifmans.ca/current-insolvency-files/>>~~

19. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Interim Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Respondents' creditors or other interested parties at their respective

A
KML

addresses as last shown on the records of the Respondents and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

20. **THIS COURT ORDERS** that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

21. **THIS COURT ORDERS** that nothing in this Order shall prevent the Interim Receiver from acting as a trustee in bankruptcy of the Respondents.

22. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Interim Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.

23. **THIS COURT ORDERS** that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Interim Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

24. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Interim Receiver from the sale of the Real Property with such priority and at such time as this Court may determine.

25. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Interim Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

Let the order issue on avoidance with its terms
"W. Hon - Sept 5."

SCHEDULE "A"

REAL PROPERTY

1. PIN: 03206-3618 (LT)
Property Description: PT LOT 26, PLAN M807, PT1, 65R34410,; Town of Richmond Hill
Address: 46 Puccini Drive
Richmond Hill, ON L4E 2Y6

SCHEDULE "B"

INTERIM RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____ *KSV Kofran Im.*

1. THIS IS TO CERTIFY that ~~Zeifman Partners Inc.~~, the interim receiver (the "Interim Receiver") of the real property described in Schedule "A" hereto (the "Real Property"), including all rents arising therefrom and all proceeds thereof, (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ____ day of November, 2018 (the "Order") made in an action having Court file number -CL-, has received as such Interim Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Interim Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the ____ day of each month] after the date hereof at a notional rate per annum equal to the rate of ____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Interim Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Interim Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Interim

Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Interim Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Interim Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

KSV Kofman Inc.
~~Zeriman Partners Inc.~~, solely in its capacity as
Interim Receiver of the Real Property, and not in
its personal capacity

Per: _____
Name:
Title:

SCHEDULE "A" TO INTERIM RECEIVER CERTIFICATE**REAL PROPERTY**

1. **PIN:** 03206-3618 (LT)
Property Description: PT LOT 26, PLAN M807, PT1, 65R34410,, Town of Richmond Hill
Address: 46 Puccini Drive
Richmond Hill, ON L4E 2Y6

Court File No. CV-18-00608356-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.)
JUSTICE H. J. WILTON-SIMON)

TUESDAY, THE 13th)
DAY OF NOVEMBER, 2018) *AMS*

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

**2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED and VICAR HOMES LTD.**

Respondents

**ORDER
(appointing Receiver)**

SV
ofman
Inc.
THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing *KSV* ~~Zeifman Partners Inc.~~ ("~~Zeifmans~~") as receiver and manager (in such capacities, the "Receiver") *AMS* without security, of the Real Property (defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Oksana Prociuk, sworn November 6, 2018, and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, Carlo Demaria, *AMS* and *AMS* Trade Capital Finance Corporation, ~~and any other party appearing,~~ and on reading the consent of ~~Zeifmans~~ to act as the Receiver,

*Being advised by counsel
that KSV consents to
AMS*

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~Zeifman~~^{KSV} is hereby appointed Receiver, without security, of the real property described in Schedule "A" hereto (the "**Real Property**"), including all rents arising therefrom and proceeds thereof (collectively, the "**Property**"). *HWK*

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts, rents and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (d) to receive and collect all monies, rent and accounts now owed or hereafter owing to the Respondents in respect of or relating to the Real Property and to exercise all remedies of the Respondents in collecting such monies, including, without limitation, to enforce any security held by the Respondents;
- (e) to execute, assign, issue and endorse documents of whatever nature in respect of the Property, whether in the Receiver's name or in the name and on behalf of the Respondents, for any purpose pursuant to this Order;
- (f) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Real Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (g) to market the Real Property, including advertising and soliciting offers in respect of the Real Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (h) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (i) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (j) to, without any further Court approval, on the condition that it is determined to be desirable by the Receiver, in its discretion, (i) sell and convey the Elm Property pursuant to the Agreement of Purchase and Sale, accepted May 19, 2017, between Vicar Homes Ltd. and Sylvia Conforti, as amended, subject to monetary adjustments and such amendments as the Receiver may deem appropriate, or (b) negotiate and enter into a new agreement for the sale of the Elm Property, on terms acceptable to the Receiver ~~and the Applicant~~, and sell and convey the Elm Property to Sylvia Conforti pursuant to such sale agreement;
- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to the Real Property;
- (m) to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondents, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Respondents; and
- (n) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

None
A

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Respondents, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Respondents, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all access codes and keys to the Real Property to the Receiver upon the Receiver's request.

NO PROCEEDINGS AGAINST THE RECEIVER

5. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE PROPERTY

6. **THIS COURT ORDERS** that no Proceeding against or in respect of the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. **THIS COURT ORDERS** that all rights and remedies against the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on, (ii) exempt the Receiver or the Respondents

The provision is without prejudice to Trade Credit Finance contracts in operation commencing and proceeding with an approval for the approval of a claim in respect of many other things, the Real Property.

from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

RECEIVER TO HOLD FUNDS

8. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of the Real Property and the collection of any rents or accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

LIMITATION ON ENVIRONMENTAL LIABILITIES

9. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

10. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

11. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

12. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

13. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

14. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may

consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

15. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

16. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

17. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

ONTARIO NEW HOME WARRANTIES PLAN ACT

18. **THIS COURT ~~ORDERS AND~~ DECLARES** that the Receiver is ~~not~~ a "vendor" as defined in, and for the purposes of, the *Ontario New Home Warranties Plan Act*.

making no determination as whether or not the Receiver is a vendor

SERVICE AND NOTICE

19. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List

website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol, with the following URL: ~~<https://www.zeifmans.ca/current-insolvency-files>~~.

Handwritten:
*
*
*

20. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Respondents and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

21. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

22. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Respondents.

23. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

24. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

25. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the sale of the Real Property with such priority and at such time as this Court may determine.

26. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

*Let the order issue in
accordance with the terms
of W. Han-Siegel J.*

SCHEDULE "A"

REAL PROPERTY

1. **PIN:** 03199-0011 (LT)
Property Description: PCL 7-1 SEC M1563; LT 7 PL M1563; Town of Richmond Hill
Address: 87 Elm Grove Avenue
Richmond Hill, ON L4E 2W8

SCHEDULE "B"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____ *KJV Kofman Inc.*

1. **THIS IS TO CERTIFY** that ~~Zeifman Partners Inc.~~, the receiver (the "Receiver") of the real property described in Schedule "A" hereto (the "Real Property"), including all rents arising therefrom and all proceeds thereof (collectively, the "Property"), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 2018 (the "Order") made in an action having Court file number ___-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20____.

KSV Kofman Inc.
~~Zeifman Partners Inc.~~, solely in its capacity
as Receiver of the Real Property, and not in its
personal or corporate capacity

Per: _____
Name:
Title:

SCHEDULE "A" TO RECEIVER'S CERTIFICATE**REAL PROPERTY**

1. PIN: 03199-0011 (LT)

Property Description: PCL 7-1 SEC M1563; LT 7 PL M1563; Town of Richmond Hill

Address: 87 Elm Grove Avenue
Richmond Hill, ON L4E 2W8

TAB 4

9:30 am 148

COUNSEL SLIP

COURT FILE NO CV-18-608356-01

DATE November 29, 2018

NO ON LIST 1

TITLE OF PROCEEDING Buduchnist Credit Union v 2321197 Ontario Inc. etal

COUNSEL FOR:		PHONE & FAX NOS
PLAINTIFF(S)	<u>KENNETH P. KRAFT Sr</u>	T 416 863 4374
<u>APPLICANT(S)</u>	<u>Buduchnist Credit Union</u>	F 416 863 4592
PETITIONER(S)		E <u>KENNETH.M.KRAFT@DENTONS.COM</u>

COUNSEL FOR:		PHONE & FAX NOS
<u>DEFENDANT(S)</u>	<u>Peter W G Conroy</u>	416-748-5117 (H)
<u>RESPONDENT(S)</u>	<u>Chris Lee</u>	416-746-8319 (F)
	<u>for Trade Capital Finance Corp.</u>	<u>ccaney@loonix.com</u>
		<u>cllee@loonix.com</u>

RESPONDENT - CARLO DEMARIA

416-645-5078 (H)

416-598-3730 (F)

PHILIP UNDERWOOD

punderwood@olg.ca

November 29/18

The application of Trade Capital Finance will not be heard on December 4/18 at the time of the dictum of the application of the Buduchnist Credit Union. However, Trade Capital Finance may bring a motion for the examination of cross-examination of the Credit Union's affidavit at that time. The application judge will determine whether such motion should be heard on that date or re-scheduled for another date. W. Hon-hut J.

BUDUCHNIST CREDIT UNION LIMITED
Applicant

- and -

2321197 ONTARIO INC. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

SUPPLEMENTARY APPLICATION RECORD

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